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Indigenous peoples and boarding schools: a comparative study

Note by the secretariat

Summary

At its sixth session, the United Nations Permanent Forum on Indigenous Issues recommended that an expert undertake a comparative study on indigenous peoples and boarding schools (see E/2007/43-E/C.19/2007/12, para. 70). The study was completed in 2008. At its seventh session, the Permanent Forum welcomed the study and requested that it be made available as a document for the ninth session in all official languages of the United Nations (see E/2009/43-E/C.19/2009/14, para. 68). The present document is a summary version of the full report on indigenous peoples and boarding schools (E/C.19/2009/CRP.1).

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I. Historical overview of boarding schools*

A. United States of America

1. During the nineteenth and early twentieth centuries, Native American children were forcibly abducted from their homes to attend Christian and Government-run boarding schools as a matter of state policy. The boarding school system became more formalized under President Grant's peace policy of 1869-1870, which turned over the administration of Indian reservations to Christian denominations. Funds were set aside to erect school facilities that were to be administered by churches and missionary societies.[1] These facilities were a combination of day schools and boarding schools erected on Indian reservations.

2. The first off-reservation boarding school, Carlisle, was founded in 1879. Children were taken far from their homes at an early age and not returned to their homes until they were young adults. By 1909, there were over 25 off-reservation boarding schools, 157 on-reservation boarding schools and 307 day schools in operation.[2] Thousands of native children were forced into attending these schools.

3. The rationale for off-reservation boarding schools was "kill the Indian in order to save the man", as well as "transfer the savage-born infant to the surroundings of civilization, and he will grow to possess a civilized language and habit".[3] The strategy was to separate children from their parents, inculcate them with Christianity and white cultural values and encourage or force them to assimilate into the dominant society. For the most part, the schools primarily prepared native boys for manual labour or farming and native girls for domestic work. Children were also involuntarily leased out to white homes as menial labour, rather than being sent back to their homes, during the summer.

4. Boarding schools were administered as inexpensively as possible. Children were given inadequate food and medical care, and conditions were overcrowded. According to the Boarding School Healing Project, native children in South Dakota schools were rarely fed; as a result, they routinely died in mass numbers of starvation and disease. Other children died from common medical ailments owing to medical neglect.[4] In addition, children were often forced to do grueling work in order to raise money for the schools and salaries for the teachers and administrators. Children were never compensated for their labour.

5. Many survivors reported being sexually abused by multiple perpetrators in these schools; however, boarding school officials refused to investigate, even when teachers were publicly accused by their students.[5] There are reports that both male

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* The present document contains a summary version of the study prepared by Andrea Smith.

[1] See Jorge Noriega, "American Indian education in the United States: indoctrination for subordination to colonialism", in *State of Native America: Genocide, Colonization and Resistance*, M. Annette Jaimes, ed. (Boston, South End Press, 1992).

[2] See David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence, Kansas, University Press of Kansas, 1995).

[3] Cited in Frances Paul Prucha, *Americanizing the American Indian: Writings by the "Friends of the Indian", 1880-1900* (Cambridge, Massachusetts, Harvard University Press, 1973).

[4] See Boarding School Healing Project, *Shadow Report for the International Convention on the Elimination of All Forms of Racial Discrimination* (2007).

[5] See Jeff Hinkle, "A law's hidden failure", *American Indian Report*, vol. 19, No. 1 (2003).

and female school personnel routinely abused native children, sometimes leading to suicides among these children.[4]

B. Canada

6. Full-scale efforts to "civilize" aboriginal peoples in Canada did not begin until British hegemony was fully established in 1812. In 1846, the Government resolved to fully commit to Indian residential schools. The State and the churches collaborated in efforts to "civilize" Indians in order to solve the "Indian problem". In 1889, the Indian Affairs Department was created, and Indian agents were dispatched to aboriginal communities. These agents would threaten to withhold money from aboriginal parents if they did not send their children to school. Parents were even imprisoned if they resisted schooling their children. Indian agents prepared lists of children to be taken from reserves and organized round-ups at the commencement of the school year.[6]

7. As in the United States of America, residential schools focused on industrial education, including agriculture and trades for boys and domestic training for girls, rather than academics. These schools were to be set up far away from the communities of aboriginal children so that the children would not be influenced by their native cultures. By 1896, there were 45 church-run residential schools in Canada.[7]

8. Christian religion was mandatory in the schools. Sanitary and physical conditions were poor, leading to a high disease rate; outbreaks of tuberculosis were common. Children were also physically and sexually abused, forced into hard labour and frequently whipped and beaten if they spoke aboriginal languages or expressed aboriginal cultural identity.[8]

9. Residential schooling reached its peak in 1931, with over 80 schools in Canada. From the mid-1800s to the 1970s, about one third of aboriginal children were confined to schools for the majority of their childhoods. The last school closed in 1984.

C. Latin America and the Caribbean

10. Given the diverse countries in the Latin American and Caribbean region, boarding school patterns were not as uniform as in the United States and Canada. Generally, it appears that most boarding schools were set up by Christian missions as part of a "civilization" process. In the south-eastern Peruvian Amazon, schooling was monolingual and monocultural in the Spanish language. In the 1950s, the Arakmbut peoples were forced to live near Catholic missions after having been decimated by disease. During the boom period of the rubber industry, the Dominican

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[6] See Suzanne Fournier and Ernie Crey, *Stolen from Our Embrace: The Abduction of First Nations Children and the Restoration of Aboriginal Communities* (Vancouver, Douglas and McIntyre, 1998).

[7] Ibid.; John Milloy, *A National Crime: The Canadian Government and the Residential School System, 1879 to 1986* (Winnipeg, University of Manitoba Press, 1999).

[8] See Celia Haig-Brown, *Resistance and Renewal: Surviving the Indian Residential School* (Vancouver, Arsenal Pulp Press, 1988).

missionaries became particularly involved in trying to pacify them through education. Arakmbut children were obliged to attend mission schools far away from their parents, and forced to learn Spanish.[9]

11. Mexico's education policy in the 1800s and early 1900s focused on the assimilation of indigenous peoples and teaching them to speak Spanish; however, some reformers advocated for bilingual education as a means of effectively assimilating indigenous peoples. In the 1960s, in the rural community of Kuchmil in the Yucatán region, the Government of Mexico set up *internados*, or boarding schools, that would teach children Spanish and provide food, clothing and shelter. Indigenous peoples were attracted to the system because they desired schools that would prepare their children for wage employment and teach them the skills necessary to negotiate State and local bureaucracies.[10]

12. In the Bolivarian Republic of Venezuela, religious orders would sign contracts with Governments to sanction missionary activity. The Capuchin order, for instance, was given educational, political and civil authority over territories in its contracts. From the 1920s until the 1970s, the order set up boarding schools and day schools for the Warao peoples. In the 1970s, however, the administration of schools was turned over to Government authorities. Missionaries often spoke Warao, but would address students only in Spanish. Today, schools are being built in the communities, but attending them is difficult for many who live in outlying areas that are reachable only by watercraft. Use of the Spanish language was strictly enforced in schools among the Guarani in Paraguay, beginning in 1812.[11]

13. Until the 1970s, Colombia provided funding to nine different Catholic orders to educate indigenous groups. These Catholic groups set up missions where they separated children from their families from the age of 5. The Capuchin order was widespread in Colombia as well. Children were not allowed to speak their native languages, visit their families or wear their traditional clothing. In some regions, the missions gave money and land to those who married outside their group. In the 1970s, the State finally recognized the need for culture-specific education and began hiring and training indigenous teachers.[12]

14. In Brazil, the Jesuits opened up a mission post among the Manoki peoples in 1949 and relocated the children to Utiariti. Others followed to escape the devastation wrought by massacres and disease. The Manoki peoples were divided into groups based on age and gender and supervised by a priest or a nun in all activities. They were prohibited from speaking their own languages and were encouraged to intermarry. Everyone had to work in the mission and engage in

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[9] See Sheila Aikman, "Language, literacy and bilingual education: an Amazon people's strategies for cultural maintenance", *International Journal of Educational Development*, vol. 15, No. 4 (October 1995).

[10] See M. Bianet Castellanos, "Adolescent migration to Cancún: reconfiguring Maya households and gender relations in Mexico's Yucatán Peninsula", *Frontiers: A Journal of Women Studies*, vol. 28, No. 3 (2007).

[11] See Luisa Margolies, "Notes from the field: missionaries, the Warao and populist tendencies in Venezuela", *Journal of Latin American Anthropology*, vol. 11, No. 1 (April 2006).

[12] See Silvina Gvirtz and Jason Beech, *Going to School in Latin America* (Westport, Connecticut, Greenwood Press, 2007).

business operations that profited the mission. The Manoki peoples stayed in Utiariti until the school was dismantled in 1968.[13]

D. Australia

15. Since the beginning of European colonization in Australia, successive Governments and missionaries targeted indigenous children for removal from their families in order to "inculcate European values and work habits in children, who would then be employed in service to the colonial settlers".[14] The Government specifically targeted indigenous children of mixed descent for removal. The rationale was that indigenous children with lighter skin colour could be more easily assimilated into non-indigenous society. Meanwhile, "full-blood" Aboriginal people were thought to be a dying race. Many children of mixed descent were totally separated from their families. During the period from 1910 to 1970, between 10 and 30 per cent of indigenous children were removed from their families. By the mid-1930s, more than half of the so-called "half-caste" children were housed in institutions administered by the State.[15]

16. Christian churches were at the forefront of this practice. In the late 1940s, some 50 missions operated throughout Australia. Similar patterns emerged: education focused on Christianization and manual labour rather than preparation for higher education. Abuse was prevalent, and schools were poorly maintained.[16] Conditions were deplorable in these missions and settlements, with death rates often exceeding birth rates. Disease, malnutrition and sexual violence were commonplace. Children were often forced to work in the homes of white people, where they were routinely sexually abused.

E. New Zealand

17. Following the 1840 signing of the Treaty of Waitangi, which established New Zealand as a British Crown colony, the State began to use education as a means to "civilize" the Maori peoples. The colonial State subsidized churches to administer missionary schools. The 1847 Education Ordinance encouraged the establishment of industrial boarding schools to remove Maori children from what was seen as their "primitive" cultures. Block grants were made available to church-based mission schools as long as they provided instruction in English rather than in Maori.

18. As Maori resistance against settlers grew, however, they began to abandon boarding schools. The 1867 Native Schools Act allowed Maori schools to be established if there was a formal request by Maori, who also had to provide the land,

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[13] See Rinaldo Arruda, "Menky Manoki: history of occupation and contact", May 2003. Available from http://pib.socioambiental.org/en/povo/menky-manoki/1916.

[14] See Human Rights and Equal Opportunity Commission of Australia, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (Sydney, 1997).

[15] See Robert Manne, "Aboriginal child removal and the question of genocide, 1900-1940", in *Genocide and Settler Society: Frontier Violence and Stolen Indigenous Children in Australian History*, A. Dirk Moses, ed. (New York, Berghahn Books, 2004).

[16] See Quentin Beresford and Gary Partington, eds., *Reform and Resistance in Aboriginal Education* (Crawley, Australia, University of Western Australia Press, 2003).

half the cost of the buildings and a quarter of the salary of the teachers. By 1879, 57 Maori schools had been established. The Maori school system ran parallel to the public primary school system. Maori children could attend either, but only until they reached secondary school. The only avenue available for further education was Maori denominational boarding schools, with funding provided through scholarships from the Department of Education if parents could not pay the necessary fees. A significant feature of this school system was that the Maori themselves participated in its establishment.

19. The purpose of the Maori denominational boarding schools was to take those Maori students who seemed to have the highest potential for assimilation, inculcate them with European values and customs and then send the "assimilated" Maori students back home to "uplift" their communities. The goal was to create a class structure within Maori communities whereby the more "assimilated elite" could manage those parts of the community deemed "savage" by Europeans. Maori girls received particular attention because, since they were seen as the primary caretakers of children, they were in the best position to inculcate European values in the next generation.[17]

20. In 1941, in line with the desire to make secondary schooling available to all children, the State began to establish native district high schools intended for those Maori students who could not attend the denominational boarding schools. By 1950, there were 150 Maori schools. Eventually, however, the State recommended that there should be only one State school system, and the Maori school system was disbanded. This disbandment was not necessarily conducted in collaboration with Maori communities. Some supported the system, despite its faults, because it was a means by which to focus specifically on Maori educational needs.[18]

21. In 1900, 90 per cent of Maori children could speak Maori; by 1960, only 26 per cent of Maori children could speak their language. Since a 1986 landmark case brought before the Waitangi Tribunal, the right to language has gained increased legitimacy, spurring language revitalization in schools. Since 1984, Maori peoples have gained increased opportunities to receive Government monies to fund Maori-based educational initiatives. In 1988, a Royal Commission report claimed that the educational system had purposely introduced assimilation policies that oppressed Maori culture and language, and called for culturally relevant and bilingual Maori education.[19]

F. Scandinavia

22. Lutheran missionaries arrived in Samiland during the seventeenth century and encouraged the Sami to speak Finnish, the missionary language. It was the desire of missionaries to "save" the Sami peoples from their heathen ways, and several

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[17] See Judith Simon and Linda Tuhiwai Smith, eds., *A Civilising Mission?: Perceptions and Representations of the New Zealand Native Schools System* (Auckland, Auckland University Press, 2001); Kay Morris Matthews and Kuni Jenkins, "Whose country is it anyway?: The construction of a new identity through schooling for Maori in Aotearoa/New Zealand", *History of Education*, vol. 28, No. 3 (September 1999).

[18] See Simon and Smith, *A Civilising Mission?*.

[19] See Wharehuia Hemara, *Maori Pedagogies: A View From the Literature* (Wellington, New Zealand Council for Educational Research Press, 2000).

Christian schools were established in Samiland. The goal of these educational establishments was to educate Sami men in the ways of Christianity so that they could then return to their homes as missionaries. The missionaries did not set up an educational system for all Sami children, but their training schools served as precursors for later educational systems established in Samiland.[20]

23. As nation States began to develop in the areas inhabited by the Sami, they began to establish special schools to assimilate the Sami peoples into the dominant culture. Established originally by Christians, these schools would later come under the control of the Governments of the nation States. Although many of the schools established were for Sami children in Norway, there were also such schools in Finland and Sweden. Both Norway and Sweden passed laws prohibiting the use of the Sami language in schools and at home. In Finland (which had become an autonomous region under the Russian empire in 1809), assimilatory policies were not as explicitly articulated as in Norway or Sweden.[20]

24. The period of the boarding schools lasted from the nineteenth century until the 1960s, when the Sami peoples began to gain political power and recognition. First-hand accounts describe the boarding school experience, especially the process of being removed from homes at such an early age, as having been very traumatic; however, not all Sami peoples considered boarding schools to be a completely hostile environment. At the same time, the Sami peoples had already been subjected to a long period of Christianization, so, according to some Sami scholars, the process was not necessarily as disruptive as it was for indigenous children in other countries who were the first generation to be Christianized.[21]

25. In addition, these schools were not specifically for Sami children, but were mandatory for anyone who lived too far away to be able to attend a local school. Thus, these schools were actually mixed rather than Sami-specific. With some exceptions (such as special schools for the children of reindeer-herding Sami families in Sweden), anyone who lived in a geographically isolated area or who did not attend public school was mandated to attend a residential school. Boarding schools in Finland were not as regimented or brutal in terms of disciplinary control as elsewhere, most likely because in Finland the boarding school system also served Finnish students. Moreover, the boarding schools in Finland were generally smaller in size, and the focus was on academic training. Manual labour was not part of the daily school schedule. Still, the process of being removed from homes and prohibited from speaking the Sami language has resulted in cultural alienation, loss of language and lowered self-esteem.[21]

26. In Norway, children were not allowed to speak the Sami language in school until 1959. Since the late 1960s, many major changes have occurred within the school systems regarding Sami peoples. In the 1980s, many educational acts were passed that allowed Sami to be taught as a language of instruction. Since 1997, the

[20] See Rebecca Partida, "Suffering through the education system: the Sami boarding schools". Available from www.utexas.edu/courses/sami/dieda/hist/suffer-edu.htm (accessed 30 June 2008).

[21] See Rauna Kuokkanen, "'Survivance' in Sami and First Nations boarding school narratives: reading novels by Kerttu Vuolab and Shirley Sterling", *American Indian Quarterly*, vol. 27, No. 3 (summer/fall 2003).

Sami Education Council has opened several schools that focus on Sami content within the curriculum and conduct lessons in the Sami language.[22]

G. Russian Federation

27. In 1924, the Union of Soviet Socialist Republics established the Committee of the North, designed to administer the affairs of northern minorities (indigenous groups were designated as "northern minorities", except for the Yakuts and the Komi, which had their own autonomous republics). At the beginning, the emphasis was on preserving traditional pathways, but eventually the policies moved towards forced assimilation.

28. In the 1920s, schools that included the teaching of indigenous languages were established among the 26 groups of indigenous peoples in the north. Thirteen alphabets were created, using the Roman alphabet for indigenous languages. By 1926, 18 residential schools were in place across Siberia, and five day schools had been established.[23] In 1937, however, northern alphabets were outlawed. After the Second World War, the Soviet Union began the process of Russification. Northern groups were forcibly settled into mixed areas in order to assimilate them and foster Russian unity. From the age of 2, northern indigenous children were forced to attend boarding schools where they were prohibited from speaking their languages. By 1970, no indigenous languages were being taught in schools.[24]

29. The boarding schools were originally designed for nomadic tribes so that they could receive a systematic education, but they soon became compulsory for all children. Children were taken away between the ages of 1 and 2, and returned when they were between 15 and 17 years old with no knowledge of their traditional communities. By the Second World War, 80 per cent of Evenki peoples were studying in residential schools and living away from their homes at least six months out of the year.[23] This policy deformed traditional family structures, leaving returned children without the skills to survive in their communities.

H. Asia

30. Many countries in Asia send indigenous children who live in remote areas to boarding schools. In Indonesia in 1996, the Social, Home Affairs, Education and Culture ministries, as well as the religion ministries, decided to provide financial aid and transportation for children living in remote areas so that they could attend boarding schools.[25] In West Kalimantan, for instance, the majority of secondary schoolchildren attended boarding schools in the capital of Lanjak, and only returned

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[22] See Fernand de Varennes, "Indigenous Peoples and Language", *Murdoch University Electronic Journal of Law*, vol. 2, No. 1 (April 1995). Available from www.murdoch.edu.au/elaw/issues/v2n1/devarenn21.html.

[23] See Alexia Bloch, *Red Ties and Residential Schools: Indigenous Siberians in a Post-Soviet State* (Philadelphia, University of Pennsylvania Press, 2003).

[24] See Nikolai Vakhtin, "Native peoples of the Russian far north" (London, Minority Rights Group, 1992).

[25] See Seameo Innotech, "Special education in Southeast Asia: general characteristics, legal framework, basic information, issues and challenges", 30 June 2008. Available from www.seameo-innotech.org/resources/seameo_country/SpEd_in_sea.htm.

home for weekends and holidays.[26] Viet Nam also utilizes boarding schools for indigenous children. The 1946 Constitution of Viet Nam supports the instruction of indigenous children in their own languages; however, national educational policies mandate the use of Vietnamese as the language of instruction.[27]

31. In the 1950s, Xinjiang, Inner Mongolia, Tibet, Ningxia and Guangxi — five provinces in China with large minority populations — were designated as autonomous minority nationality regions. They were granted increased local control over the administration of resources, taxes, birth planning, education, legal and jurisdictional issues and religious expression. During the Cultural Revolution, minority customs were denounced as "primitive", and schools in these regions were forced to teach in Mandarin only. Since 1978, however, the Government has adopted various measures to improve relationships with minorities. Some of the Government efforts include increasing educational opportunities for minority children by establishing boarding schools with some instruction conducted in local languages, increasing teacher salaries, lowering requirements in minority regions and offering affirmative action consideration for university admission.[28] Despite these efforts, the educational attainment of children in minority regions is far less than that of other children.

32. In India, indigenous or tribal peoples generally did not have access to education, for many reasons. Many tribal communities are geographically dispersed and did not have sufficient population densities to build schools in their communities. Tribal communities also lacked the financial resources to send children to school. Before 1980, literacy rates were around 8 per cent in many communities. Within this context, residential, or ashram, schools were developed for tribal children. These schools also shared some of the "civilization" assumptions of other boarding schools, namely that they could provide a better environment to develop a child's personality than his or her own community could.

33. In Malaysia, the Department of Aboriginal Affairs became responsible for administering the affairs of indigenous peoples in 1961. Government policy advocated the integration of indigenous peoples into the larger society, while also advocating the teaching of indigenous languages and public education designed to eradicate racism against indigenous peoples. These latter policies were not implemented. As part of the assimilation policies, the Department of Aboriginal Affairs began working with Islamic missionary societies to encourage the Islamization of indigenous peoples through various measures, including Islamic residential schools. In general, the Department of Aboriginal Affairs provides education for indigenous children between the first and third grades, after which they must go to boarding schools to receive further education.[29]

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[26] See Michael Eilenberg, "Paradoxical outcomes of national schooling in the borderland of West Kalimantan, Indonesia: the case of the Iban", *Borneo Research Bulletin*, 1 January 2005. Available from www.accessmylibrary.com/coms2/summary_0286-16677841_ITM.

[27] See United Nations Children's Fund (UNICEF) Innocenti Research Centre, "Ensuring the rights of indigenous children" (Florence, Italy, October 2003).

[28] See Bonnie Johnson, "The politics, policies and practices in linguistic minority education in the People's Republic of China: the case of Tibet", *International Journal of Educational Research*, vol. 33, No. 6 (2000); Uradyn Bulag, "Mongolian Ethnicity and Linguistic Anxiety in China", *American Anthropologist*, vol. 105, No. 4 (December 2003).

[29] See Robert Knox Dentan, et al., *Malaysia and the "Original People": A Case Study of the Impact of Development on Indigenous Peoples* (Needham Heights, Massachusetts, Allyn and Bacon, 1996).

I. Middle East

34. During the British mandate, a boarding school was set up for Palestinian Bedouin boys. The school was attended by the sons of the elite for the purpose of providing skills for future tribal leaders to be able to negotiate with colonial officials. A girls' school was opened in 1934. Many of the graduates of these schools became sheikhs or took up other prominent positions in society. The boys at the school were encouraged to retain their traditional tribal dress and were permitted to visit their families regularly. After the establishment of Israel, a few students attended a boarding school in Nazareth and became professionals in Bedouin society. Nowadays, however, most students leave school before reaching the twelfth grade. The curriculum is not culturally or linguistically relevant, and there is a shortage of schools. In a few of these schools, children live by themselves in makeshift boarding areas around the schools.[30] Similar types of makeshift boarding schools where children live by themselves and care for themselves exist among the Al Murrah peoples in Saudi Arabia. Students stay in a one-room schoolhouse when their families leave with their herds after the summer harvest. In another schoolhouse, boys share a wooden shelter while their families travel with their herds. Other tribal groups are developing similar spontaneous settlements.[31]

35. In Oman, the Government, in conjunction with the United Nations, began to sponsor development programmes for the Harasiis as oil companies began their operations. This development project included the establishment of a boarding school for boys (girls could attend on a day basis), as well as other service programmes. The boarding school has both primary- and secondary-level schooling, with enrolment climbing yearly. The goal is to provide skills to allow the Harasiis to expand their employment opportunities, particularly with the oil companies and the army. While the Harasiis supported these efforts, they also desired to maintain their traditional ways of life through animal husbandry, and they have requested that development schemes take this into account. At the same time, the Harasiis have expressed frustration that they have not been given jobs with the oil companies.[32] Another issue is the presumption that the Harasiis would not want their girls to board, and the insistence on gender segregation, which the Harasiis do not particularly support; hence, the community built its own makeshift dormitory for girls so that they could also attend boarding school.[33]

36. In the Islamic Republic of Iran, there are special boarding schools offered between the ninth and twelfth grades for children from tribal backgrounds who live far from the cities. Girls and boys attend different schools. These schools have strict

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[30] See Aref Abu-Rabi'a, "A century of education: Bedouin contestation with formal education in Israel", in *Nomadic Societies in the Middle East and North Africa: Entering the 21st Century*, Dawn Chatty, ed. (Leiden, the Netherlands, Brill, 2006).

[31] See Donald Cole, "New homes, new occupations, new pastoralism: Al Murrah Bedouin, 1968-2003", in *Nomadic Societies in the Middle East and North Africa*.

[32] See Dawn Chatty, "Multinational oil exploitation and social investment: mobile pastoralists in the Sultanate of Oman", in *Nomadic Societies in the Middle East and North Africa*.

[33] See Dawn Chatty, *Mobile Pastoralists: Development Planning and Social Change in Oman* (New York, Columbia University Press, 1996).

entrance examinations and only admit exemplary students. Graduates of these schools are more likely to obtain professional jobs after graduation.[34]

J. Africa

37. Several countries in East Africa have set up special boarding schools, some specifically targeting girls. In Kenya, Christian denominations controlled 75 per cent of schools as late as 1955. Indigenous peoples are generally within the category of "marginalized groups". During the 1970s, Kenya set up the remote areas boarding programme to provide education by means of low-cost boarding schools. The schools were flooded by non-indigenous students, however, and the indigenous communities did not participate. In the late 1970s, Kenya decided to suspend the schools because of their ineffectiveness in educating pastoralists.[35] A number of factors, such as insecurity, armed conflict and school expenses, contributed to low participation. In various instances, boarding schools were in poor condition, lacked adequate water and proper safeguards for the protection of the children, particularly girls, and were overcrowded. Nevertheless, there are many communities that desire the expansion of boarding schools and are more directly involved in the promotion of education. There are some boarding schools for girls in Kenya that have large enrolments, although the overall impact on education is small.

38. In Eritrea, during the post-liberation period, the Eritrean Liberation Front involved communities in decision-making processes, including education. In recent years, higher priority has been given to expanding the provision of education in nomadic areas, including the development of boarding schools; however, while the communities help build skills and manage the operation of the schools, they are not currently involved in curriculum development. Teachers often try to adapt the curriculums to indigenous cultures, but frequently do not have the required training to do so.

39. In Sierra Leone, after the demise of legal slave trading, the London-based Church Missionary Society joined with the Government to create separate villages where children could be trained in trades, farming and, for the most promising, teaching or mission work. By separating children from their "uncivilized" parents, mission boarding schools were seen as a key strategy for inculcating children "untainted" by the influence of their parents with European and Christian values.[36]

40. Kwame Nkrumah, the first President of Ghana, introduced a policy of mass education and established dozens more secondary boarding schools throughout the country. In reports by the media, these schools are credited with helping to reduce the ethnic tensions that plague many other countries in the region. Others, however, have complained that this system is underfunded, there are problems with sexual

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[34] See Julia Huang, "Integration, modernization and resistance: Qashqa'i nomads in Iran since the revolution of 1978-1979", in *Nomadic Societies in the Middle East and North Africa*.

[35] See Saverio Krätli, "Education provision to nomadic pastoralists", Institute of Development Studies working paper (Brighton, United Kingdom, 2001).

[36] See Caroline Bledsoe, "The cultural transformation of western education in Sierra Leone", *Africa*, vol. 62, No. 2 (1992).

abuse of girls in these schools, parents often cannot afford school fees and education is based on the colonial model.[37]

II. The current situation, practices and ideologies of boarding schools

A. North America

41. On 10 May 2006, the Government of Canada announced the Indian Residential Schools Settlement. This agreement was made between the Government of Canada, the Assembly of First Nations and legal representatives of both former residential school students and the churches involved in the schools. This settlement included a lump-sum payment for all survivors, which is a new process for dealing with serious claims of abuse.

42. Canada has also established a five-year truth and reconciliation commission on abuse in residential schools. Church officials from several denominations have also been part of a "Remembering the children" tour throughout Canada. On 11 June 2008, the Prime Minister of Canada officially apologized in the House of Commons for abuses in residential schools. There are currently no indigenous boarding schools operating in Canada.[38]

43. Boarding schools still operate today in the United States. Some are operated by the Bureau of Indian Affairs, some are administered by churches and some are under tribal control. Attendance is no longer mandatory, and native children are not forced to practice Christianity. Many schools that are under tribal control teach native languages and emphasize native cultural traditions.

44. Nonetheless, concerns remain about current boarding schools. According to the 2001 budget report of the United States Bureau of Indian Affairs, many reservation schools are structurally unsound and/or of insufficient size to educate incoming students. Only 65.5 per cent of native peoples graduate from high school, compared with 75.2 per cent for the United States population as a whole. Only 9.3 per cent of native students graduate from college, less than half the rate among the general population.[39]

45. Unlike Canada, the United States has made no attempt to address the legacy of abuse in boarding schools. In 2005, a class action lawsuit against the Government for abuse in boarding schools was dismissed. In 2007, the Jesuit order of Roman Catholic priests stated that it would pay approximately $5 million to 16 people who had stated that they had been sexually abused by clergy while attending a boarding school. Otherwise, there has been virtually no acknowledgment by the Government of its complicity in abuses in boarding schools.

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[37] See Cecilia Sem Obeng, *Home Was Uncomfortable; School Was Hell* (Hauppauge, New York, Nova Publishers, 2002).

[38] See Canadian Broadcasting Corporation, "Prime Minister cites 'sad chapter' in apology for residential schools", 11 June 2008. Available from www.cbc.ca/canada/story/2008/06/11/aboriginal-apology.html.

[39] See International Work Group for Indigenous Affairs, *The Indigenous World 2000/2001* (Copenhagen, Eks-Skolens Trykkeri, 2001).

B. Australia

46. In Australia today, there are private residential schools that cater to indigenous students. They can be expensive, however, and are generally church-administered, forcing children to participate in Christianity. In addition, they often cater only to the elites of indigenous communities.[40]

47. In 2008, the Prime Minister of Australia apologized in Parliament to all Aboriginal and Torres Strait Islander peoples for laws and policies that had "inflicted profound grief, suffering and loss". This apology singled out indigenous peoples who had suffered from the policies of forced removal. So far, this apology has not been accompanied by programmes for compensation, as was the case in Canada.

48. After the apology, the Indigenous Affairs Minister called for the continuation of the operation of boarding schools, saying that many indigenous peoples wanted them, particularly in remote areas where schools were not available. While it was not seen as a return to the missions, boarding schools could be established in remote communities to make sure children were properly fed, clothed and able to study.[41] Calls for boarding schools were also in response to the 2007 Government emergency intervention in indigenous communities in the north of Australia, purportedly to protect indigenous children from sexual abuse. Many indigenous peoples pointed out that abuse issues were related to other socio-economic issues, such as poverty, unemployment, substance abuse and prior sexual abuse, and that the strategy targeted only indigenous Australians, not all Australians who had committed sexual abuse.[42]

C. Asia

49. In 2008, Viet Nam announced plans to integrate vocational training into boarding school curriculums in order to meet local needs. It also announced plans to provide free or subsidized education at the primary and secondary levels.[43] Viet Nam has also recently built four boarding schools for indigenous children and other disadvantaged children in Laos.[44]

50. The Chinese Constitution guarantees minorities the right to use and preserve their languages. China has one of the oldest and largest programmes of State-sponsored preferential policies for ethnic minorities. Minority students receive preferential consideration for admission to higher education. In certain regions, some schools have begun to consider the need to reflect the lifestyles of indigenous communities. They have adjusted their school years and holidays to correspond with migratory patterns and also encourage families to set up tents outside the

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[40] See Roz Walker, et al., eds., *Indigenous Education and Social Capital: Influences on the Performance of Indigenous Tertiary Students* (Perth, Black Swan Press, 1998).

[41] See Australian Associated Press, "Fed: Boarding schools a win for remote communities: Macklin", 30 March 2008.

[42] See www.reconciliation.org.au.

[43] See Viet Nam News Agency, "Ethnic schools to include vocational training", 24 January 2008. Available from www.thanhniennews.com/education/?catid=4&newsid=35306.

[44] See Viet Nam News Agency, "Cooperation with Laos Continues to Develop", 11 November 2007.

schoolyards so that children have more regular contact with their parents and can still be part of the community life.[45]

51. Since 1980, the Government of India has devoted special attention to the education of tribal peoples through a number of policies. Given the diverse groups of tribal peoples in India, the State has developed district-specific plans for tribal education. In 1986, India's national policy on education specified that priority would be given to opening primary schools in tribal areas, developing curriculums in tribal languages for primary grades and switching to regional languages in later grades, encouraging tribal youth to become teachers in tribal areas, developing ashram, or residential, schools in tribal areas and developing incentive schemes, in keeping with the special needs of tribal peoples, in order to encourage them to attend school.[46]

52. In addition, India began to build more schools in areas with lower populations so that more tribal children could attend school near home.[46] The State announced plans in 2008 to open 100 boarding, or ashram, schools for tribal children in order to improve literacy rates. These schools will provide food as well as education. Families will not be required to contribute financially.[47] The sixth all-India educational survey of 1993 showed that 78 per cent of tribal populations and 56 per cent of tribal habitations have primary schools within the habitation regions. Eleven per cent of tribal populations and 20 per cent of tribal habitations now have schools within a one-kilometre radius. There are still 176,500 habitation regions without school facilities, however. Some of these children are being educated through ashram schools or alternative educational models.[48]

53. Nonetheless, scholars report that problems still exist in ashram schools, which are often inadequately furnished and supplied. The curriculum is often not relevant to the lives and cultures of tribal peoples, and teachers often come from non-tribal backgrounds and are inadequately skilled. Children are inadequately nourished, and are frequently absent in order to fulfil social roles within their communities.[48] There are also complaints about gender disparity in such schools, where girls are often taught in their own languages for purposes of returning back to their communities, while boys are taught in English with the purpose of promoting social and economic advancement.[49]

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[45] See Åshild Kolås and Monika P. Thowsen, "Dilemmas of education in Tibetan areas outside the Tibet Autonomous Region", in *China at the Turn of the 21st Century* (Stockholm, Nordic Association for China Studies, 2002); Ellen Bangsbo, "Schooling for knowledge and cultural survival: Tibetan community schools in nomadic herding areas", *Educational Review*, vol. 60, No. 1 (February 2008); Catriona Bass, "Learning to love the motherland: educating Tibetans in China", *Journal of Moral Education*, vol. 34, No. 4 (December 2005); Bulag, "Mongolian Ethnicity and Linguistic Anxiety in China" (see footnote 28); and Johnson, "The politics, policies and practices in linguistic minority education" (see footnote 28).

[46] See Sarva Shiksha Abhiyan, "Education of tribal children in India". Available from http://ssa.nic.in/research-studies/education_tribal_children.pdf.

[47] See Indo-Asian News Service, "Chhattisgarh to open 100 boarding schools for tribals", 16 May 2008. Available from http://indiaedunews.net.

[48] See G. Ananda, *Ashram Schools in Andhra Pradesh* (New Delhi, Commonwealth Publishers, 1994).

[49] See Bhupinder Singh and Neeti Mahanti, eds., *Tribal Education in India* (New Delhi, Inter-India Publications, 1995).

54. The educational programme of Malaysia's Department of Aboriginal Affairs seems to have been unsuccessful. In 1984, less than 30 per cent of indigenous children were literate. More than 70 per cent of children dropped out of school by the fifth grade. In 1995, responsibility for education was transferred to the Ministry of Education.[50] General complaints include the following: lack of proper buildings with basic utilities, ill-trained and unprepared teachers, lack of specialist teachers, overcrowded classrooms, inadequate hostel facilities, lack of supervision by the State and inadequate transportation.[51] Indigenous peoples also complain that sometimes their attempts to develop their own schools are declared illegal by the State.[52] By 1983, the medium of education for all schools was Bahasa Malaysia, with English as a mandatory second language. The teaching of indigenous languages is optional.[53] In 1990, Malaysia had 115,342 students in hostels in day schools and 2,953 in primary school hostels. Hostels in day schools provide accommodation to needy students, whereas central hostels care for students from schools in a particular district. Under a special programme, exceptional students can attend boarding schools in urban areas, in exchange for a nominal sum for food and boarding.[54] For the state of Sabah in particular, the Government established a foundation that provides scholarships. It has also built 10 district hostels, which house more than 1,000 students, and aims to provide a hostel in every district in the State.[51]

D. Latin America

55. During the second half of the twentieth century, national attitudes began to shift in many Latin American countries, such as Mexico, regarding indigenous peoples and languages. By the mid-1960s, the principle of early literacy in native languages plus the teaching of Spanish as a second language had become the official policy of the Government of Mexico. In the 1970s, a growing demand that whole educational programmes in larger indigenous communities should be truly bilingual and bicultural emerged. The goal is to have all subjects in primary school taught in the indigenous language where it is spoken by the local majority. Spanish is to be introduced as a second language.

56. In March 1975, Peru officially recognized Quechua as an official language of the country, allowing legal proceedings to be conducted in that language. The Ministry of Education was mandated to provide "all necessary support for institutions engaged in the teaching and promotion of the language in question". The teaching of Quechua is declared to be compulsory at all levels of education. In 1992, the Plurinational State of Bolivia began implementing a bilingual education programme in Guaraní, Aymara and Quechan communities. In the same year, Paraguay started mandating the teaching of Spanish and Guaraní at the elementary,

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[50] See Sugan Sharma, *Educational Opportunities and Tribal Children* (Shiva Publishers Distribution, 1996); Dentan, et al., *Malaysia and the "Original People"*.

[51] See F. Mail, "A study of educational problems in Malaysia with particular reference to Sabah", Master's thesis, University of Hull, 4 March 1984.

[52] See Cordillera Peoples Alliance, et al., *Indigenous Peoples and Local Government: Experiences from Malaysia and the Philippines* (Copenhagen, International Work Group for Indigenous Affairs, 2005).

[53] See Hyacinth Gaudart, *Bilingual Education in Malaysia* (Townsville, Australia, James Cook University, 1992).

[54] See Ministry of Education of Malaysia, *Education in Malaysia 1989* (Kuala Lumpur, 1990).

secondary and university levels. In Nicaragua, the Atlantic Coast Autonomy Law recognized the right of the Atlantic Coast communities to preserve their cultural identity and their languages. It dictates that members of these indigenous communities are entitled to be educated in their own languages, through programmes which take into account their historical heritage, their traditions and the characteristics of their environment, all within the framework of the national educational system.[55] In some countries, however, indigenous children must go to boarding school to obtain an education. In Suriname, indigenous children can attend local schools for primary grades but can only attend secondary schools if they leave their homes at the age of 11 to attend boarding schools in the capital, Paramaribo. Parents are also charged fees that they often cannot afford. Consequently, many children, especially girls, do not receive a secondary school education.[27]

57. It is important to note that, even in similar regions, indigenous peoples have diverse ideas about education, requiring that there be real community input. For instance, in the Peruvian Amazon, the Arakmbut peoples have expressed little interest in making boarding schools bilingual. Some groups feel that they can teach indigenous languages at home, and that indigenous languages cannot be taught adequately in Government-sponsored schools. They see schooling as having a very limited function designed to allow some community members to negotiate with the larger society. Still other groups whose languages are endangered want bilingual education because they feel that this may be the only means of preserving their languages.[9]

E. Russian Federation

58. Since 1985, there has been a reversal of the policies of forced assimilation. The First Congress of National Minorities took place in the Russian Federation in 1990. School classes began reintroducing indigenous languages into the curriculum. Many alternatives to the system were explored, such as shutting down the schools and educating children at home or utilizing mobile teaching structures so that children could continue to be part of herding brigades without missing out on their education.

59. Since then, however, federal funding for education and other basic needs that would have allowed for more fundamental reorganization in the educational sector has been curtailed. Interestingly, many indigenous peoples now see boarding schools as potential sites for cultural revitalization. Some indigenous families now say that indigenous cultures and languages can be taught in residential schools, whereas it may not occur in regular town schools. In addition, the specific needs of indigenous children are not being met in integrated schools, where they also face racism. Thus, ironically, it is often indigenous peoples who emphasize the need to integrate into the larger society that oppose residential schools, while those who support cultural survival argue that residential schools can be sites for indigenous revitalization.[23]

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[55] See Colin Brock and Hugh Lawlor, eds., *Education in Latin America* (Beckenham, United Kingdom, Croom Helm Ltd., 1985); Gvirtz and Beech, *Going to School in Latin America*.

F. Scandinavia

60. Indigenous peoples seem to have been making impressive gains in many Scandinavian countries, especially in public education. In Norway, Sami was again allowed as a language of instruction in primary schools in 1959. In 1969, Norwegian legislation formalized the right of children of Sami-speaking parents in Sami districts to be instructed in the language of the indigenous community.

61. In the 1980s, all three Scandinavian countries began to elaborate legal guarantees with respect to the right to use the Sami language. Norway, with the largest population of Sami, adopted the first Sami language law in 1990, followed by Finland in 1991. Sweden has been much less proactive in this regard. All three States have directly elected Sami parliaments, which came into being in Finland in 1973, in Norway in 1987 and in Sweden in 1993. Although these are strictly consultative bodies, the fact that they are elected does give them weight with legislators when they are faced with issues of importance to the Sami peoples.[56]

G. Africa

62. Many indigenous groups in Africa see some form of boarding school system as the only option, particularly for nomadic peoples that do not have set migratory patterns. Because there may be low attendance, some areas are looking to experiment with local feeder schools that might increase the demand for boarding schools.

63. Eritrea has increased financial allocations to regional educational offices. This funding is used to sensitize nomadic groups on the need to send children to schools, change the school calendar in keeping with the demands of nomadic indigenous communities and increase teacher allowances. These offices are also encouraging the teaching of indigenous languages, involving grass-roots organizations in teaching and recruiting female teachers to attract female learners. A "para-boarding" system has been developed to assist nomadic indigenous children with elementary schooling. There are three such facilities in which a committee that includes local education officials and community elders manages each facility. Villages and the local administration contribute the shelter, food and other supplies.[57]

64. There are 10 boarding schools in Djibouti, although only a few are operating. Generally, nomadic groups are reluctant to send their children to schools. In addition, they are often reluctant to send girls because of concerns for the girls' safety. Dormitories are criticized for being poorly equipped and managed. There is also low community engagement in school policy.[57] In addition, there are informal boarding school practices. For example, nomadic families in Djibouti are often placed with urban families. This has led to a dependence of rural families on families in urban areas and an exodus of the younger generation to the cities.

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[56] See Fernand de Varennes, "Indigenous Peoples and Language", *Murdoch University Electronic Journal of Law*, vol. 2, No. 1 (April 1995).

[57] See Roy Carr-Hill, et al., *The Education of Nomadic Peoples in East Africa: Synthesis Report* (Paris, United Nations Educational, Scientific and Cultural Organization (UNESCO); Tunis, African Development Bank, 2005).

65. In Botswana, in order to address the problem of geographical isolation, the children of the San/Basarwa people are moved to hostels from which the Government transports the children to school every term. In this way, the children get basic schooling, although not in their native languages. These "remote area dweller hostels" tend be very unsympathetic places for San students. The idea of separating parents and children is foreign to San culture, and the pain and alienation that San students feel at boarding schools can be acute.[58]

66. Within the African continent, schools are often looked upon with suspicion as an attempt to keep nomadic groups in one place, although there are some nomadic groups that may seek expanded economic opportunities and have a desire to become more integrated into the dominant society, particularly in northern and north-eastern Kenya. Some feel that schooling alienates children from their communities and does not allow them to learn the skills they need to function in their own context. There is a saying that "Children go to schools empty and come out empty".[57]

H. New Zealand

67. Numerous court decisions have confirmed that the Maori language is protected under the Waitangi Treaty. Maori was made an official language in 1987, and legislation was adopted in order to fulfil obligations with respect to the Maori language. In particular, courts, broadcasting systems and educational systems were called on not to overemphasize English and to provide adequate protection for the Maori language.[59]

III. Conclusion

68. As a whole, boarding schools were generally a failure at improving the lives of indigenous peoples. The reason is that their purpose was not to benefit indigenous peoples; rather, it was to forcibly assimilate indigenous children into the larger society. Consequently, the dictates of the larger society took precedence over the needs of indigenous peoples. In addition, the fact that boarding school attendance was often mandatory deprived indigenous peoples of their right to self-determination.

69. Within these overall trends, however, there are individual success stories, as well as unintended beneficial consequences. For instance, there were individual administrators and teachers in boarding schools who did work for the betterment of indigenous children. Many complex issues remain, however. In some areas where Christianization had already begun, indigenous peoples had already begun to internalize self-destructive behaviours such as abuse. In addition, forced relocations had already economically marginalized many indigenous communities so that they could not sustain themselves. Consequently, for some children, boarding schools were an improvement from the conditions under which they had been living. Of

[58] See International Work Group for Indigenous Affairs and the African Commission on Human and Peoples' Rights, *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities: Mission to the Republic of Botswana, 15-23 June 2005* (Copenhagen, 2005).

[59] See New Zealand History Online, "Waitangi Tribunal Claim -- Maori Language Week". Available from www.nzhistory.net.nz.

course, this "success" has to be read in the context of larger social failures to respect the rights of indigenous peoples in all aspects of their lives.

70. An unintended consequence of some boarding schools, such as those in the United States and Canada, was that they brought together people from diverse indigenous communities. This process helped to develop a pan-indigenous consciousness that gave rise to the birth of many indigenous rights organizations and movements in these countries.

71. Ironically, given the damage done by boarding schools, some indigenous peoples now look to boarding schools as a way of addressing the past assimilationist policies of these schools. Given these legacies, indigenous-specific educational institutions, including boarding schools, may be necessary to reverse the processes of colonization.

72. At the same time, one reason why boarding schools often appear to be an answer is because educational policy cannot be addressed separately from the larger context of economic, social and cultural domination; that is, if indigenous peoples continue to live in societies in which their traditional ways of life are marginalized or in which they face economic domination, then it follows that they will require educational systems that come from within the dominant society in order to survive.

73. There are many lessons to be learned from boarding schools. It is clear that there is no one-size-fits-all approach to education, because different indigenous communities want different things from formal education. Consequently, it is necessary to be creative and innovative in terms of developing policies that meet the needs of diverse indigenous communities. It is important that there be opportunities for indigenous communities to develop their own schools and that adequate resources and funding be available to support such initiatives.

74. For nomadic indigenous peoples, even when there is an attempt to build flexible school schedules around migratory patterns, the design of these schedules is not based on the specific patterns of particular groups. On a more positive note, the country of Eritrea is experimenting with "para", or more informal, boarding school systems that are developed in collaboration with indigenous communities. Furthermore, it has been found that school feeding programmes in East Africa often attract more children to schools.

75. In the United States, some native communities have taken over boarding schools and have adapted the curriculums accordingly. In the United States, New Zealand and other places, indigenous communities are looking to boarding schools as potential places to teach indigenous languages, particularly in areas where the language might be endangered. Indigenous-specific boarding or other schools might be more effective institutions to accomplish this goal than mixed public schools.

76. One generally positive example is that of boarding schools in Mongolia, in which enrolment went from nearly nil to almost 100 per cent between 1950 and 1990. During that period, participants claim that those who organized the schools did not try to assimilate them or ridicule indigenous identity. While the curriculum was designed by the central State, the actual administrators circumvented the curriculum in order to make it relevant to the community. Education was free, and many of the instructors were locally based. Children were allowed to start school at a later age in order to ensure that they had been socialized in their pastoral context and had acquired basic skills to build on during school holidays. Since the collapse

of the Soviet Union, however, funding for Mongolian schools has declined; as a result, participation in these schools is declining.[35]

77. The recent apologies and inquiries conducted by Australia and Canada open an opportunity to discuss the legacy of boarding schools and ways in which Government can redress their negative impacts. Canada has already authorized reparation measures and Australia, in its *Bringing Them Home* report,[14] recommended that monetary compensation be provided to people affected by forcible removal. Other countries could use these efforts as a model to begin a reconciliation process between indigenous peoples negatively impacted by boarding schools on a multigenerational level and the nation States in which they reside.

78. While there may lessons learned from past boarding school polices, there are still areas for concern. In areas where boarding school policies were particularly brutal, it does not seem possible to address present-day educational inequity without a Government response to past abuses. When multiple generations of indigenous peoples are affected by the sexual, physical and emotional abuse they suffered in schools, they are not in a position to build vibrant communities unless healing can take place. Also, without addressing past abuses, there will be continued suspicion of any Government-sponsored educational programmes.

79. There must be opportunities for indigenous communities to be more actively consulted and involved in the development of suitable educational programmes. Some, particularly those in herding, nomadic or remote communities, will desire to maintain boarding schools. Others may desire their complete abolition (in some countries, such as Canada, they have already been abolished), but indigenous communities need to become active participants in developing the curriculums and structures of schools depending on their needs.

80. In addition, in areas where educational facilities are sparse, some countries, such as Uganda, are experimenting with non-formal educational processes and mobile teaching centres. Where countries are resource-poor, it is necessary to consider alternative ways of providing education that may be different from mainstream models or those used in developed countries.[35]

81. Concerns still exist that funding for indigenous education continues to be inadequate, particularly in geographically remote areas, where boarding schools may not be publicly subsidized and teachers are often poorly trained. In many areas, indigenous peoples do not receive education past the primary school level. There is still a concern among many indigenous peoples that the purpose of indigenous boarding schools is to further the cultural eradication and assimilation of indigenous peoples. Further, in many areas indigenous peoples are not actively consulted in the development of educational programmes.

82. While there is an increasing emphasis on bilingual education in indigenous schools, this policy is of limited use if the affairs of that State are still conducted in the dominant language. A positive example is the fact that some Latin American countries are mandating that not only educational institutions be bilingual, but that all levels of society should become bilingual.

83. In areas where boarding schools may be necessary, there is the concern of how to address the social and family disruptions that result when children leave their homes to attend schools on a residential basis. A positive example is in China, where administrators are experimenting with the format and structure of residential schools

so that they are less disruptive to minority family, social and economic patterns. They are also allowing families to live near the schools.

84. In conflict-ridden areas, there are insufficient safeguards to ensure the safety of children in boarding schools, particularly girls. To address safety concerns, it could be wise to open single-sex schools in some areas where communities desire such policies. As other case studies demonstrate, however, many indigenous communities do not support single-sex education.

85. While boarding schools may be problematic, integrated public schools are sometimes equally problematic. In these schools, indigenous children often face extreme forms of racism and are subjected to culturally irrelevant or insensitive curriculums.

86. Gender disparities in boarding school education continue to be an issue in some countries. As pointed out in the present document, boys are often more likely than girls to attend schools that emphasize academic education that enables them to take advantage of economic opportunity.

87. Overall, in considering the relationship between maintaining the cultural identities of indigenous peoples and eradicating educational gaps between indigenous and non-indigenous peoples, it is clear that primary and secondary educational policies cannot be separated from larger systemic issues; that is, if the surrounding society does not allow for higher education in indigenous languages or provide job opportunities for indigenous peoples, there will always be a conflict between providing quality education that allows for societal advancement and the preservation of the cultures and languages of indigenous peoples.

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Discussion on the special theme for the year: "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples"

Human rights: implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Information received from Governments

Denmark

Summary

The present document provides information on the new human rights strategies of the Government of Denmark, with a particular focus on indigenous peoples. In the light of Denmark's current chairmanship of the Arctic Council, the document also reports on the Council and on indigenous communities of the Arctic. Finally, the report provides an overview of Danish-supported development programmes for indigenous peoples in Latin America and Asia.

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I. New human rights strategies of Denmark

1. In 2009, in an illustration of the key importance that Denmark attaches to the promotion and protection of human rights throughout the world, its Government launched a new strategy for its approach to international human rights cooperation. Recognizing that it is not possible to take maximum action in all fields simultaneously and that the current human rights challenges demand targeted and focused responses, the Government will, as part of the strategy, commit itself in particular to a number of focus areas in which Denmark is in a special position to make a difference. One such area is the rights of indigenous peoples.

2. Indigenous peoples are particularly vulnerable to human rights violations in some contexts, including in the face of new challenges such as climate change. To the extent that the rights of indigenous peoples are recognized — which has often not been the case — one of the great challenges is to ensure respect for and compliance with those rights. This is a welcome and defining issue for the Danish Government, as the Home Rule Arrangement and Self-Government Arrangement for Greenland provide Denmark with a special basis for promoting and protecting indigenous peoples' rights. Thus, under the strategy, Denmark will, "in cooperation with the Greenland Home Rule Government, promote and protect the rights of indigenous peoples".

3. In June 2009, in addition to the strategy on international human rights cooperation, the Danish Government launched a strategy entitled "Democratization and human rights: for the benefit of the people", outlining a set of strategic priorities for Danish support for good governance. This strategy focuses on the promotion of democracy, justice and the rule of law in developing countries and accords high priority to the participation and voice of marginalized groups as a key aspect of that effort. Indigenous peoples often fall into the category of marginalized groups and, accordingly, are given explicit mention throughout the strategy. Together, the two new Danish strategies will serve as a solid framework for Denmark's continued effort to promote and protect the rights of indigenous peoples.

Support for the United Nations Trust Fund on Indigenous Issues

4. In line with recommendation 36 of the recommendations addressed to Member States resulting from the eighth session of the Permanent Forum, the Danish Government provides financial support to the United Nations Trust Fund on Indigenous Issues. In accordance with the Government's priorities, Denmark has recently decided to more than double its support to the Trust Fund during the four-year period 2010-2013. The total Danish support during that period will thus amount to DKK 4 million (approximately $760,000) reflecting the great importance that the Danish Government attaches to the promotion of the rights of indigenous peoples.

II. Arctic Council

5. The Kingdom of Denmark is the current Chair of the Arctic Council (2009-2011) and, as such, takes the opportunity to report the following with regard to the Council and indigenous communities of the Arctic.

6. The 1996 Ottawa Declaration formally established the Arctic Council as a high-level intergovernmental forum to provide a means for promoting cooperation,

coordination and interaction among the Arctic States, with the involvement of the Arctic indigenous communities and other Arctic inhabitants on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic. The States members of the Arctic Council are Canada, Denmark (including Greenland and the Faroe Islands), Finland, Iceland, Norway, the Russian Federation, Sweden and the United States of America. In addition to the member States, the Arctic Council includes the category of permanent participants. This category is open equally to Arctic organizations of indigenous peoples, with a majority of the Arctic indigenous constituency representing: (a) a single indigenous people resident in more than one Arctic State; or (b) more than one Arctic indigenous people resident in a single Arctic State. The category of permanent participation was created to provide for the active participation of, and full consultation with, the Arctic indigenous representatives within the Arctic Council. This principle applies to all meetings and activities of the Council. The following organizations are permanent participants of the Arctic Council: the Aleut International Association, the Arctic Athabaskan Council, the Gwich'in Council International, the Inuit Circumpolar Council, the Saami Council and the Russian Association of Indigenous Peoples of the North.

III. Danish-supported development programmes for indigenous peoples

A. Bolivia

7. In Bolivia, the bilateral sector programme entitled "Support for the rights of indigenous peoples" supported by Denmark, was recently completed after 10 years of implementation. While its first phase was based on a concept of popular participation and decentralization, with explicit components in favour of indigenous peoples, the second phase (2005-2009) was an indigenous programme inspired by International Labour Organization (ILO) Convention No. 169, the indigenous territory dimension of Bolivian land reform and the challenge of the Permanent Forum to directly involve indigenous peoples directly in the design of development programmes and as beneficiaries of such programmes.

8. Over the past five years, approximately $30 million has been invested in the development of three components in collaboration with the Government of Bolivia, indigenous organizations and non-governmental organizations: (a) implementing ILO Convention No. 169 in terms of public policy, legislation and political participation; (b) providing legal land titles to indigenous territories; and (c) promoting the management of indigenous territories. The election of the first indigenous President in Latin America in 2005 and a Bolivian Government committed to indigenous rights have certainly contributed to the successful implementation of the programme and to promising results. Furthermore, Bolivia adopted the United Nations Declaration on the Rights of Indigenous Peoples as national law in 2007 and thus far is the only Member of the United Nations to have made the Declaration legally binding.

9. The results of the programme can be summarized by citing the achievements resulting from the implementation of its components. The mainstreaming of indigenous rights and ILO Convention No. 169 are reflected in the new Bolivian

Constitution of 2009, as well as in specific policies formulated and applied by the ministries of education, health, justice, labour, defence, autonomy, rural development and culture, as well as by inter-ministerial commissions on vulnerable peoples and forced labour. This component was implemented together with the Ministry of the Presidency. The second component, on communal land titles, was implemented mainly by the National Land Reform Institute, which provided 101 communal land titles, representing some 140,000 km2, or approximately 14 per cent, of Bolivia's national territory. The Vice Ministry of Lands participated in this process through the certification of indigenous lands and the analysis of potential land use. The indigenous organizations Consejo Nacional de Ayllus y Marckas del Qullasuyu and Confederación de Pueblos Indígenas de Bolivia (CIDOB) were partners in implementing the component, and non-governmental organizations provided technical support. The third component, focusing on indigenous land management, provided support to already titled communities in formulating their own development plans, in collective management regulation and in pilot projects. In recent years, CIDOB, non-governmental organizations and the Vice Ministry of Lands have implemented pilot projects in 25 indigenous territories.

10. The programme was completed to the satisfaction of the indigenous communities, as well as to that of the Governments of Bolivia and Denmark. The priorities of the programme proved to be very relevant and reflected the success of a participatory process of preparation involving indigenous peoples and their organizations. Bolivia and Denmark have agreed to continue to provide support to indigenous communities by mainstreaming the indigenous dimension in all sectoral programmes.

B. Central America

11. In Danish development programmes in Central America, indigenous peoples have always been not only a cross-cutting theme, but also the subject of focused intervention, given the high percentage of indigenous populations in the region. The following provides information about some of the key development programmes within the framework of the Danish effort to promote and protect the rights of indigenous peoples in the region, with a special focus on Nicaragua.

Human rights and democracy programme

12. Denmark has supported the promotion of human rights and democracy in Central America since the beginning of the 1990s. Initially, this support was directed towards the peace and reconciliation processes after the end of the civil wars in the region, which caused great suffering, particularly on the part of the indigenous peoples. Gender and ethnicity were integrated as transversal issues at all levels of the Human Rights and Democracy Programme and were reflected in specific lines of action. These included the promotion of women's and indigenous peoples' leadership and empowerment as part of the democratic process, and the creation of a culture of peace as stipulated in the peace accords, with a specific focus on the accord on indigenous rights. In 2005, the focus of the Human Rights and Democracy Programme in Central America shifted towards access to justice and transparency, with gender and indigenous peoples, and particularly indigenous women, as cross-cutting issues. Specific areas supported are providing access to justice for indigenous peoples in collaboration with their organizations, and

focusing on civil society participation, anti-discrimination, human rights advocacy, multicultural bilingual activities, poverty alleviation and political participation at all levels. Furthermore, the programme seeks to promote activities at the regional level related to the basic human, social, economic and cultural rights of indigenous peoples.

Regional environmental programme

13. Traditionally, the participation of indigenous peoples in political and legal decision-making has been limited with regard to economic development and environmental management in Central America. Therefore, the Regional Environmental Programme supports initiatives to reduce inequality and discrimination concerning indigenous peoples. Support for "eco-enterprises", one component of the programme, promotes a linkage between indigenous producers and the market while preserving the cultures and identities of indigenous peoples. For example, among the activities related to environmental investigation and advocacy, several initiatives receiving support promote the identities and cultures of indigenous peoples by strengthening their participation in the promotion of environmental management through political advocacy, strengthening the organizational capacity of indigenous peoples in their struggle to defend their territories, preparing and implementing an indigenous women's strategy for the conservation of biodiversity and traditional knowledge, and providing advocacy in the implementation of Government policies aimed at the sustainable management of natural resources.

National environmental programme in Nicaragua

14. Likewise, in the national programmes being carried out in Nicaragua, indigenous peoples are supported either as a cross-cutting issue or through specific, focused activities. Since its inception, the National Environmental Programme has promoted indigenous peoples' right to land by supporting land-titling processes, especially in the two largest natural reserves, in the south-eastern and northern parts of the country. With a view to the management of the protected areas, the programme has adopted a strategy supporting access to and the sustainable use of natural resources by indigenous communities. The programme thus promotes a number of activities, such as traditional forms of organization, the use of ancestral practices in the utilization of resources, and the promotion of coordination and understanding among indigenous peoples and Government/official planning schemes for protected areas and traditional modes of land use. Similarly, in order to ensure viability in the use of natural resources and to prevent intrusion by settlers into protected areas, special attention is accorded not only to the implementation of regulation and control efforts, but also, and perhaps more important, to the promotion of economic alternatives that are not alien to the traditional subsistence practices of indigenous peoples in the buffer zones of the protected areas. The programme has helped to deepen recognition and understanding of traditional indigenous cultures and practices as a means for the protection and sustainable use of natural resources.

Transport programme in Nicaragua

15. In the Transport Programme, the component focusing on rural transport infrastructure ensures deep community involvement in the planning, execution and

maintenance of the works, thus respecting the cultures and identities of indigenous communities and taking their development needs into account. A great many projects have been implemented in indigenous communities. Several advisers speak and understand the languages of various indigenous peoples and demonstrate an understanding of their cultures.

Education programme in Nicaragua

16. The identities and cultures of indigenous peoples, especially in the two autonomous regions along the Caribbean coast, are also supported through the Education Programme, which seeks to promote bilingual education within indigenous communities.

National human rights programme in Nicaragua

17. Finally, a special fund for civil society within the framework of the National Human Rights Programme supports a variety of activities that focus in particular on indigenous peoples. Examples include the following: promoting and consolidating the social, economic, political and cultural rights of indigenous peoples by strengthening leadership, identity and capacities for advocacy and coordination among indigenous leaders; strengthening the capacities of local civil society structures in the indigenous communities in the Northern Autonomous Region so as to enable the indigenous peoples to administer, defend and preserve their territorial and environmental resources and thus improve the quality of life; increasing awareness among indigenous peoples with regard to citizen participation; and creating a network of indigenous and ethnic women against domestic and sexual violence, from a perspective of respect for multi-ethnic and multicultural identity.

C. Bangladesh

18. Some 3 million indigenous people, belonging to 45 ethnic groups, live in Bangladesh. Indigenous peoples in Bangladesh remain among the most marginalized and poorest groups in the country and have inadequate access to education and health-care services. Furthermore, indigenous peoples are often denied their lawful right to land. Against that backdrop, and in line with Danish development assistance priorities, the Embassy of Denmark in Dhaka supports a long list of development programmes for indigenous peoples in Bangladesh in order to uphold their rights. The programmes supported by the Embassy address a broad range of issues relevant to the sustainable development of indigenous peoples and are implemented by a variety of local and international institutions and non-governmental organizations. The following provides an overview of some of those programmes.

19. One programme, entitled "Empowering People for Land, Water and Agrarian Reforms", which began in January 2008 and will conclude in December 2010, is aimed at building the capacity of primary stakeholders and partners to defend the right of indigenous peoples to land and natural resources. The project is focused exclusively on advocacy on behalf of the land rights of indigenous peoples. It also supports the secretariat of the international Chittagong Hill Tracts Commission. The local implementing organization of the project is the Association for Land Reform and Development.

20. Another programme supported by Denmark is the Adivashi Gono Unnayan project, implemented by Oxfam. The project was launched in April 2006 and is expected to run until December 2010. Its objective is to enhance the capacity of indigenous organizations at the community, regional and national levels to assert their rights. The project has successfully organized women's groups and has saved trade unions and bilingual pre-primary schools. Currently, 189 such schools are functioning, with a total of 5,184 students, 48 per cent of whom are girls. The project also promotes access to land and facilitates solutions to land disputes. In addition, it carries out advocacy programmes promoting the rights of indigenous peoples. The Danish embassy has supported this project with DKK 9.5 million (approximately $1.8 million).

21. The programme entitled "Building capacities on indigenous and tribal peoples' issues in Bangladesh" is aimed at enhancing the capacities of certain Government officials, who in turn will help to promote the rights of indigenous peoples. The project, which is being implemented by ILO, has begun to develop a detailed advocacy strategy on indigenous peoples' rights in Bangladesh, including the possible ratification of ILO Convention No. 169 by the Government.

22. Finally, the programme entitled "People's action for sustainable development/good governance in Chittagong Hill Tracts" seeks to develop coordination between indigenous communities and local government institutions in promoting human rights and good governance in order to improve the living conditions of indigenous peoples. Thus far, 150 indigenous communities in Chittagong Hill Tracts have benefited from this project, which is being implemented by the local organization Zabarang Kalyan Samity.

23. For a complete list of Danish-supported development programmes related to indigenous peoples in Bangladesh, see Annex.

D. Nepal

Indigenous peoples' rights in the constitution-making and State-reform process in Nepal

24. In Nepal, indigenous peoples constitute 37.2 per cent of a total population of 22.7 million, according to the 2001 census. The National Foundation for Development of Indigenous Nationalities Act, adopted in 2002, identified 59 distinct groups as indigenous peoples (indigenous nationalities) speaking more than 96 languages/dialects. Indigenous peoples are concentrated primarily in remote rural areas and rely mainly on subsistence farming as their livelihood. With few exceptions, Nepal's indigenous peoples live in abject poverty. Between one third and two thirds of the numbers of the indigenous population live below the poverty line, compared with 18 per cent of the members of the dominant castes. Moreover, they are underrepresented in the civil service, the police and the army.

25. The social exclusion of indigenous peoples and other marginalized groups in Nepal has been a major cause of conflict and instability in the country. Indigenous peoples in Nepal are particularly vulnerable to poverty, and most experience political, economic, social and cultural marginalization. With the reintroduction of democracy and the initiation of a national peace process in 2006, indigenous peoples' issues have been brought to the forefront of the national debate in Nepal. A

significant effort carried out by those in the indigenous movement has resulted in strong indigenous representation (36 per cent) in the Constituent Assembly, which has been tasked with drafting the new Constitution.

26. In 2007, Nepal ratified ILO Convention No. 169. This was the result of a sustained lobbying effort by indigenous peoples and activists in Nepal. The Convention has been widely promoted as a framework for dialogue on key issues raised by those in the national indigenous peoples' movement. The most immediate concern of the movement is ensuring that the rights of indigenous peoples are enshrined in the new Constitution, the first draft of which is due to be submitted by May 2010. A key demand in that regard is the achievement of a secular, federal State system in which their rights to self-determination and to ethnic and linguistic autonomy are ensured, including through affirmative action and proportional representation.

27. A year after Nepal's ratification of ILO Convention No. 169, the national programme entitled "Promotion of indigenous peoples' rights in the Constitution-making and State-reform process in Nepal" was initiated. The project is financed by the Governments of Denmark and Norway and is being implemented in partnership with the Government of Nepal and indigenous peoples' organizations. It promotes the rights of indigenous peoples in Nepal through support for the implementation of Convention No. 169. It seeks to use the Convention as a framework for dialogue and consultation between indigenous communities and government to ensure that indigenous peoples' rights are integrated into the reform process.

28. The main objectives of the project are: (a) to support meaningful consultation with and participation by indigenous councils and communities in the Constitution-making process; and (b) to support the capacity of key policymaking institutions to integrate ILO Convention No. 169 into the State-reform process.

29. The expected outputs of the programme include the following: video documentation and proposals enabling indigenous communities to present their issues to legislators in the Constituent Assembly; consultations between Assembly members and indigenous communities on key issues (land and natural resources, governance structures, employment, education and cultural rights); awareness-raising, training and capacity-building on Convention No. 169 for Assembly legislators and indigenous councils; coordination among Government institutions and agencies on indigenous issues; strengthened mechanisms for consultation with indigenous peoples at various levels of governance; the establishment of inclusive and comprehensive mechanisms for monitoring compliance with indigenous peoples' rights; technical support for the review and reform of existing legislation, policies and programmes to ensure compliance with Convention No. 169; and the capacity development of Government institutions and other stakeholders with a view to the successful implementation of the Convention.

30. The total budget amounts to $1.2 million and is financed in equal part by Denmark and Norway. The project is under implementation and has produced solid results within each of the expected output areas, but some delays have been encountered. While the original target date for completion was April 2010, it is now expected to be pushed back to late in 2010 or early in 2011.

Annex

Danish-supported development programmes related to indigenous peoples in Bangladesh

1. Title: Enforcement of Local Institutional Laws Focusing Public Awareness

   Implementing organization: Nowzuwan

   Budget: 1 million Danish kroner (DKr) (approximately $190,000 United States dollars)

   Period: August 2009 to January 2012

2. Title: Observance of the International Day of the World's Indigenous Peoples 2009

   Implementing organization: Bangladesh Adivashi (Indigenous) Forum

   Budget: DKr 64,000 (approx. $12,000)

   Period: July 2009 to September 2009

3. Title: Building Capacities on Indigenous and Tribal Peoples' Issues in Bangladesh

   Implementing organization: International Labour Organization (ILO)

   Budget: DKr 1.3 million (approx. $250,000)

   Period: October 2009 to December 2010

4. Title: Adivashi Gono Unnayan Project

   Implementing organization: Oxfam Great Britain

   Budget: DKr 9.5 million (approx. $1.8 million)

   Period: April 2006 to December 2010

5. Title: Empowering People for Land, Water and Agrarian Reforms

   Implementing organization: Association for Land Reform and Development

   Budget: DKr 2.4 million (approx. $450,000)

   Period: January 2008 to December 2010

6. Title: Peoples Action for Sustainable Development/Good Governance in Chittagong Hill Tracts

   Implementing organization: Zabarang Kalyan Samity

   Budget: DKr 2.6 million (approx. $500,000)

   Period: January 2006 to December 2010

7. Title: Consolidating Community Rights over Natural Resources

   Implementing organization: Taungya

   Budget: DKr 1.5 million (approx. $285,000)

   Period: January 2008 to December 2010

8. Title: Development Intervention for Advancement of CHT and its inhabitants Phase III

   Implementing organization: CODEC

   Budget: DKr 1 million (approx. $190,000)

   Period: January 2008 to December 2010

9. Title: Promotion and Strengthening of Local Governance in Bandarban district, Chittagong Hill Tracts

   Implementing organization: Toymu

   Budget: DKr 2.7 million (approx. $510,000)

   Period: April 2008 to December 2010

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Discussion on the special theme for the year, "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples

Human rights: implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Information received from Governments

Plurinational State of Bolivia

Summary

The present report contains a statement by the Government of the Plurinational State of Bolivia on the measures taken or envisaged in response to the recommendations made by the mission of the Permanent Forum on Indigenous Issues, conducted in April and May 2009.

* E/C.19/2010/1.

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I. Introduction

1. In the context of the recommendations arising from the seventh session of the Permanent Forum on Indigenous Issues, held from 21 April to 2 May 2008, the Permanent Forum addressed the situation of the Chaco region in paragraph 156 of its report on its seventh session:

> "The Permanent Forum has learned from indigenous peoples' communications, which have been corroborated by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, that in the Chaco region there are Guaraní communities in a practical state of slavery. According to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, as well as the articles 17, 26 and 28 of the United Nations Declaration on the Rights of Indigenous Peoples, the Forum strongly supports the efforts of the current Government of Bolivia and the commitment of the incoming Government of Paraguay to discontinue this enslaving practice and return indigenous lands to their lawful owners, the Guaraní themselves".[1]

2. In this connection, in May 2009, a mission of experts of the Permanent Forum conducted a site visit to Bolivia's Chaco region in order to collect relevant information. At its eighth session, held from 18 to 29 May 2009, the Permanent Forum decided to publish the reports of the mission to the Chaco region and suggested to the relevant Governments that they report at the ninth session.[2]

3. In late August 2009, the Permanent Forum published the report, together with the recommendations of the mission to the Plurinational State of Bolivia, which were officially endorsed by the Government at the beginning of September 2009. The Government therefore welcomes the opportunity to submit the following report on progress and challenges related to the recommendations made in the mission report of the Permanent Forum on Indigenous Issues.

II. Report

A. Free, prior and informed consent

4. The Bolivian Government, which respects international instruments and ensures enjoyment of the rights of indigenous peoples, which have been given constitutional rank, has begun to implement the recommendations made by the Permanent Forum.

5. The Government of President Evo Morales Ayma has established and guarantees indigenous peoples' right to free, prior and informed consent (in the field of hydrocarbons). In this connection, Bolivia brings to the Forum's attention the progress achieved, as set out in this table:

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[1] E/C.19/2008/13, para. 156.

[2] See E/C.19/2009/14, para. 94.

Consultation on and participation in hydrocarbon-related activities

Fiscal year	*Company*	*Activity, work or project*	*Status*	*Indigenous aboriginal peoples and farming communities*
2007	Chaco	Construction of lines for the Percheles and El Dorado mines	Finished	Zoned municipal district Takovo Mora, Guaraní People's Assembly (APG), Nueva Esperanza APG, San Isidro de Área community, San Isidro 1 and San Isidro 2
	Transredes S.A.	Margarita-Palos Blancos lateral gas pipeline	Finished	Itikaguasu APG
	Total E&P Bolivie	3D seismic survey and magnetolluric and gravimetric survey	Finished	Indigenous aboriginal peoples communities (Alto Parapetí, Iupaguasu y Karaoparienda APG)
	Pluspetrol	Development of Tajibo mine-San Isidro block	Finished	Charagua Norte ASG
2008	Transredes S.A.	Lateral expansion of Vuelta Grande gas pipeline	Finished	Machareti municipal district APG
2009	Total E&P Bolivie (Bolivia branch)	Wildcat drilling, Aquio X-1001 well	Finished	Alto Parapetí and Iupaguasu municipal districts APG
	Total E&P Bolivie (Bolivia branch)	Wildcat drilling Inchausti X-2 well	Finished	Alto Parapetí and Iupaguasu municipal districts APG
	Petrobras	3D seismic survey — San Antonio block	Under way	Itikaguasu community lands of origin

B. Ministry of the Interior

6. With regard to the mission report's Recommendation No. 15, the Ministry of the Interior, in conjunction with the Bolivian police, has established the Chaco Police Command. Its presence has been expanded in the region in order to protect the Guaraní inhabitants.

7. With regard to the mission report's Recommendation No. 16, the Ministry of the Interior, through the Bolivian police, ensures the free movement of persons without discrimination. It has, however, come up against the negligent attitude of certain police officers in the Departments of Santa Cruz, Tarija and Chuquisaca (Sucre), who do not contribute to this effort and, on the contrary, persist in acting in a manner that creates conflicts.

C. Ministry of Cabinet Affairs, Ministry of Labour, Employment and Social Security, Ministry of Production Development and Plural Economy, Ministry of Justice, Ministry of Rural Development and Lands, Inter-ministerial Transition Plan for the Guaraní People

8. The Inter-ministerial Transition Plan (PIT) is being implemented under Supreme Decree 29292 (PIT 2007-2008 for the Guaraní population). The process launched under the Plan is under way. With regard to Forum report's Recommendations Nos. 36, 37 and 38, the Plan has been submitted to the Assembly of the Guaraní People (APG) and to the municipal district councils of Tarija, Chuquisaca and Alto Parapetí for review. Pursuant to an APG decision, it is being fully implemented through the coordinated activities of Guaraní technical teams contracted and certified by the Guaraní authorities.

9. It should be highlighted that the Plan encompasses food safety and sovereignty for Guaraní children and families, in keeping with component 3 of the Plan.[3] For the benefit of the Permanent Forum, the objectives of the Plan are broadly set out as follows.

10. The overall objective is to create an environment that will enable the captive Guaraní families living in Bolivia's Chaco region to lead decent lives within the framework of the National Development Plan, "A Decent, Sovereign, Productive and Democratic Bolivia in order to Live Well" and of the demands of the Guaraní people.

11. Specific objectives of the Inter-ministerial Plan are to:

(a) Ensure enjoyment of the individual and collective rights of the individuals, families and communities of the captive Guaraní people living in Bolivia's Chaco region;

(b) Foster the Guaraní territorial reconstitution process through the reorganization and redistribution of agrarian property and implementation of the Agrarian Reform Community Renewal Act;

(c) Ensure decent living conditions for freed families during the resettlement process;

(d) Develop and implement productive infrastructure and environmental projects and programmes;

(e) Implement a cross-cutting media strategy throughout the process;

(f) Create an implementation, follow-up and evaluation mechanism for the Plan.

12. The following components have been agreed with Guaraní organizations, in accordance with the specific objectives of the Plan:

[3] See www.planguarani.com for current information on the Guaraní population in general and on the Inter-ministerial Transition Plan.

Component	*Main activities*	*Agency*
Component 1: Ensure and restore enjoyment of the fundamental human rights of the Guarani people of the Bolivian Chaco region	• Organization of alternative — productive education days for the exercise of rights and full citizenship in the communities • Creation of a standing inter-institutional and interdisciplinary governmental monitoring team in the Chaco region to ensure protection of the Guarani people's individual and collective rights • Creation of six regional labour departments (Caraparí, Yacuiba, Entre Ríos, Huacareta, Machareti and Charagua) to regulate labour relations in all sectors of the region • Correction of errors in the birth certificates of Guarani people and establishment of free, certified birth registration modules using the mobile brigades of the National Electoral Court; establishment of civil registry offices in Guarani communities • Organization-strengthening, from the Guarani perspective, of the APG district councils in preparation for the freeing of the captive communities • Provision of support to freed Guarani families, especially women, through programmes in the areas of production and fundamental rights • Preparation of the Comprehensive Plan for the Development of the Guarani Nation, based on the strategic plans for the Guarani people, for the second phase	Ministry of Justice — Ministry of Labour
Component 2: Advance the process of reconstitution of the territory of the Guarani nation through reorganization and redistribution of agrarian property and implementation of the Land Redistribution Act	• Reorganization, redistribution, granting of title and granting of agrarian property in the Guarani people's area of influence (Chuquisaca and Santa Cruz) through compensation and conversion to community lands of origin • Reorganization of agrarian property (conversion) with a view to the granting and titling of community lands of origin in the Gran Chaco province of the Department of Tarija • Certifications of ethnic identity and spatial needs reports	Ministry of Rural Development and Lands — Office of the Deputy Minister for Lands (National Agrarian Reform Institute)

Component	*Main activities*	*Agency*
Component 3: Implement a contingency programme to give freed families decent living conditions during the process and settlement in communities	• Provision of emergency care to families from the *haciendas* during the liberation process (food, provisions, tents, tools, medicine, etc.) • Provision of support to families freed in the process of settlement in the distributed public land (housing, drinking water, basic sanitation, etc.) • Development of education and health programmes for freed families, in coordination with the municipalities and district education and health offices	Ministry of Development Planning — Ministry of Education
Component 4: Implement production, infrastructure and environment programmes and projects in coordination with municipalities	• Develop family food security programmes and pilot project (agricultural, livestock and forest production and complementary activities such as, inter alia, crafts and tourism) • Develop environmental and biodiversity management programmes and projects • Establishment of community microenterprises to maintain local roads	Ministry of the Environment and Water
Component 5: Cross-cutting communication strategy for the entire process	• Design and implementation of an internal and external communication strategy	Office of the Deputy Minister for Governmental Coordination and Management of Territorial Affairs
Component 6: Mechanisms for implementation of, follow-up, and assessment of the Plan to:	• The Plan management office plans, coordinates and ensure follow-up on implementation of the Plan • It creates strategic alliances and coordinates with international aid agencies, non-governmental organizations, police departments and municipalities of the Plurinational State	Ministry of Labour

13. Strategy for implementation of the Guaraní Plan:

(a) Adoption of the Plan by the National Assembly of the Guaraní People's Assembly and by the Board of the Inter-ministerial Transition Plan;

(b) Adoption of the Plan by the Government as the Guaraní nation Comprehensive Development Plan;

(c) Institutionalization of the Plan through establishment of a Plan Implementation Unit in the Guaraní district councils of the Departments of Santa Cruz, Chuquisaca and Tarija;

(d) Inclusion of the objectives, strategies, programmes and projects by all governmental and non-governmental institutions and organizations in their short-, medium- and long-term plans;

(e) Support for implementation of the Plan by all public and private institutions, organizations and projects;

(f) Follow-up and monitoring of the Plan, under the responsibility of the National Board of the Plan Implementation Unit;

(g) Establishment and functioning of the Advisory Council.

14. There is also a Guaraní Okita Reta Plan, which contains the following main elements:

(a) Land: The territory targeted in the recovery of land for the "Reconstitution of the Territory of the Guaraní Nation" initiative;

(b) Development of the economy, production and natural resources: Equitable economic and social development of Guaraní communities, through natural resources management, use and exploitation in the territory of the Guaraní nation;

(c) Human development and research, education and health: Housing, basic sanitation and infrastructure to support basic services and research;

(d) Ñandereko or Guaraní cultural identity and human rights: Reaffirm and reappraise identity, through which the Guaraní essence of *ñande reko* (way of being) of the Guaraní nation will strengthen the organizational structure;

(e) Indigenous autonomy, organization and political participation: Achieve autonomy on the basis of a consolidated and defined (demarcated) territory, affirmation of the rights of the indigenous peoples, reorganization of the Guaraní nation and full political participation.

D. Labour inspectors

15. The Ministry of Labour, Employment and Social Security has appointed labour inspectors, based in Caraparí, Yacuiba and Entre Ríos (Tarija); Huacareta and Machariti (Chuquisaca); and Charagua (Santa Cruz), who have been provided with equipment and offices so that they can carry out their primary task of ensuring the enjoyment and restoring the labour rights of the Guaraní by maintaining a Government presence in remote locations where the labour rights of indigenous peoples, especially the Guaraní, are persistently violated. Respect for and restoration of these rights are being promoted and training in labour rights and the rights of indigenous peoples is planned for all officials of the Chaco region who are involved in the prosecution of cases related to servitude, forced labour or similar practices that target members of indigenous peoples.

E. Capacity-building

16. The Anti-racism and -Discrimination Public Policy Management Unit, which operates under the Anti-Racism and -Discrimination Office and the Office of the Deputy Minister for Decolonization, has launched several initiatives, including:

(a) Planning of the Assessment of Racism and Discrimination in the Plurinational State of Bolivia. Its main objectives are to provide the native indigenous nations and peoples with information on racism and discrimination and to draft public poiicies for combating racism and discrimination, based mainly on contributions from the primary agents of change, men and women. Visits to communities are conducted, data on perpetrators and victims is collected, theories are formulated and inputs are collected in order to design better public policies and to combat this problem;

(b) Under the new Political Constitution of the State, technical tools are being provided in order to ensure enjoyment of the rights of peoples and to better train and teach the public officials of various State ministries concerning the rights of indigenous peoples;

(c) Regarding Recommendation No. 27 of the Forum's mission report, the Ministry of Labour maintains a presence in Camiri and in the Bolivian Chaco region of Santa Cruz, Chuquisaca and Tarija (Monteagudo, Camiri, Yacuiba and Villamontes) through departmental and regional head offices. The Ministry plans to build capacities by providing computer equipment and personnel for its offices as proposed by the United Nations;

(d) In August 2007, the Ministry of Labour, Employment and Social Security established a Human Rights Unit. It works in three areas: elimination of child labour, elimination of forced labour, and indigenous peoples and gender;

There are Unit officials in each of those areas who report to the Ministry of Labour, Employment and Social Security and coordinate with the Office of the Deputy Minister for Labour and Social Security, the Department of Labour and Occupational Health and Safety, the head offices of labour of the Departments of Santa Cruz, Chuquisaca and Tarija and the regional head offices of labour of Camiri, Monteagudo and Yacuiba. These officials include labour inspectors, some hired under the budget of the Inter-ministerial Transition Plan, in Huacareta, Machareti (Chuquisaca), Yacuiba, Entre Ríos and Caraparí Taraji) and Charagua (Santa Cruz). There are also a manager, an administrator, secretaries, janitors and cleaners, three planners and three communicators from the Inter-ministerial Transition Plan;

(e) The Office of the Deputy Minister of Justice for Indigenous Aboriginal and Farming Communities, which operates under the Ministry of Justice; the Ministry of Foreign Affairs; the Office of the Deputy Minister for Lands; and the Ministry of Cabinet Affairs are implementing and promoting awareness-raising about, training in and respect for the rights of indigenous peoples;

(f) The three areas of the Human Rights Unit, which operates under the Ministry of Labour, Employment and Social Security, works in a cross-cutting manner on issues related to indigenous peoples with the offices and head offices and with departmental and regional head offices and labour inspectors, giving priority to the Bolivian Chaco region as the most vulnerable area where many members of indigenous and farming communities are subjected to forced labour.

F. Opportunities for training in indigenous peoples' rights in State institutions

17. Regarding Recommendation No. 23 of the mission report, training in labour rights and the rights of indigenous peoples is planned for all officials of the Chaco region who are involved in the prosecution of cases related to servitude, forced labour or similar practices affecting members of indigenous peoples.

G. Legislation

18. The new Constitution of the Plurinational State of Bolivia, which prohibits all forms of slavery in Bolivian territory, was promulgated on 7 February 2009.

19. In order to eliminate slavery in Bolivia, the Government promulgated article 157 of Supreme Decree No. 29215 repealing Supreme Decree No. 25763; it establishes that the existence of a system of servitude, forced labour, debt servitude and/or enslavement of captive families or persons in rural areas is detrimental to society and against the collective interest and is therefore an obstacle to performance of the social and economic function.

20. Article 2 of Supreme Decree No. 29802 states that a system of servitude, forced labour, debt servitude and/or enslavement of captive families or persons or similar practices exists where farming activities are conducted using communities, families or persons whose labour or service is provided to the owner or holder of the farmed land in violation of fundamental rights, through coercion and without the full consent of the workers, or when the obligation to pay wages is not met, either because payment is made in kind or because it is lower than the established national minimum wage.

21. Supreme Decree No. 29292 established the Inter-ministerial Council for the Eradication of Servitude, Forced Labour and Similar Practices, which comprises the Ministry of Cabinet Affairs, the Ministry of Justice, the Ministry of Development Planning, the Ministry of Production and Microenterprises, the Ministry of Rural Development and Lands and the Ministry of Labour, Employment and Social Security.

22. Supreme Decree No. 29354 justified the expropriation for public use and the reorganization and redistribution of land to be granted to the Guarani people in the Department of Chuquisaca.

23. Act No. 2494 gave rise to the National Public Safety Plan, "A Good Life through a Safe Bolivia". The Plan provides for prevention programmes and projects which address public safety issues that affect the entire population and especially the most vulnerable groups, including the indigenous Guarani people.

H. Communication strategy

24. A communication strategy based on mutual relations among the departments of Chuquisaca, Santa Cruz and Tarija has been drafted and is being implemented. The officials in charge are those who are implementing the strategy and publicizing the Interministerial Transition Plan in the mass media, especially at the regional level.

with the primary goal of raising awareness of labour rights and the rights of indigenous peoples under the new Political Constitution of the State.

I. Health

25. The Ministry of Health has implemented the Intercultural Community Family Health Programme (SAFCI), under which doctors with intercultural training travel to the communities and territory of the indigenous Guaraní people to work. However, there are still employers living in haciendas in the Bolivian Chaco region who deny entry to those doctors.

J. The judiciary

26. The Government has taken steps to expedite the prosecution of cases related to the Guaraní people. Unfortunately, the judiciary remains under the control of members of far-right political parties, such as Acción Democrática Nacionalista, Movimiento Nacionalista Revolucionario, Nueva Fuerza Republicana and Movimiento de Izquierda Revolucionaria, who own enormous landholdings and enslave our Guaraní brothers. Most of these agricultural properties were acquired fraudulently.

27. From February to April 2008, the best-known landholders, such as the Larsen, Chávez and Malpartida families, led a landowners' riot in the Cordillera province in order to prevent the granting of the Alto Parapetí community lands of origin.

28. Landowner Mario Malpartida is accused of attempted murder (art. 8, in connection with art. 252, of the Penal Code); unlawful association (art. 132); resisting the authorities (art. 159); preventing or hindering officials in their duties (art. 161); threats (art. 293); armed robbery (art. 332); attacks on State officials (art. 128); aggravated injury (art. 358); burglary (art. 298) and sedition (art. 123).

29. Those who arrived in Santa Cruz later (descendants of Croatians, Turks and others), such as Rubén Costas and the *hacienda* owners of the Santa Cruz Chaco region prevented the distribution of lots of land to indigenous people.

30. Land owners Herminia Fernández de Corcuy and Aniceto Corcuy Caba (first owners) have an area of 1,938.4717 hectares and keep six people in a situation of servitude and forced labour.

31. Land owners Elide Montes de Chávez and Babil Chávez Corcuy have an area of 3,790.9321 hectares and keep 42 Guaraní people in a situation of servitude and forced labour.

32. Land owners Nelson Chávez Aguilera, Luz Virginia Chávez de Gutiérrez, Julia Aguilera de Chávez, Roberto Chávez Aguilera, Juana Chávez Aguilera, Humberto Mario Chávez Aguilera, Rene Ernesto Chávez Aguilera, Alicia Chávez Aguilera and Raquel Chávez Aguilera de León have an area of 4,894.0967 hectares and keep 33 Guaraní people in a state of servitude and forced labour. Roberto Chávez says that his parents, Julia and Nolberto, acquired the property in 1940 from Seledonio Aguilera. The first owner was Ernesto Chávez Corcuy, who transferred the property, including the Guaraní families. Worker Jesús Jarillo Toledo has complained that the

owner threatened to expel him from the *hacienda* without payment of social benefits.

33. In Isiporenda ("place where *bejuco* (a climbing plant used as string) grows"), owners Elvy Abett de Malpartida and Luis Eduardo Soriano Noriega have an area of 10,958.6948 hectares and keep 26 Guaraní people in a situation of servitude and forced labour. The Malpartida family purchased the land from Oscar Peña Sandoval; their deed of transfer lists Guaraní people as though they were beasts of burden. The Malpartida family, one of the most violent and abusive employers in the area, is charged with whipping Guaraní employees on 13 April and with threatening members of the Itakuatia community with firearms. They often whip their farmhands and kill the goats that they raise for family consumption. They pay wages of 300 bolivianos (42 dollars) for 13-hour days, normally in kind with medicines, school materials, clothing and food. Malpartida whipped lawyer Ramiro Valle and other indigenous people for 15 minutes on 13 April 2008 in Cuevo.

34. In Huaraca ("Guan"), Itacay ("boundary marker"), owners Duston Larsen Metenbrink and others have an area of 15,262.9492 hectares and keep 29 Guaraní people in a situation of servitude. According to *Escape* magazine and the newspaper, *La Razón* (February 2007), Ronald Larsen, father of Duston and a descendant of Danish immigrants who came to Bolivia in the 1960s with the Peace Corps, bought the Caraparicito I property in 1969 from the family of Donoso Trigo, a descendant of Octavio Padilla, who owned 32 haciendas. He was a lawyer and brother-in-law of Juana Azurduy de Padilla. The Larsen family acquired the property together with the Guaraní people who had worked for the previous owner. Larsen, a United States citizen, owns 57,145 hectares in the Department of Santa Cruz.

K. Agrarian reform

35. Act No. 3545 on community reorganization of the agrarian reform and its regulations of 28 November 2006 have led to great progress in the distribution of land to indigenous, aboriginal and farming nations, peoples and communities in the Plurinational State of Bolivia.

36. On 21 November 2008, pursuant to that Act, National Agrarian Reform Institute (INRA) technical brigades resumed the redistribution of land in indigenous communities, small and medium-sized properties and agricultural enterprises in the Cordillera province of the Department of Santa Cruz.

37. The goals of the redistribution are:

(a) To grant title to community lands of origin in Alto Parapetí as requested by Guaraní communities;

(b) To free indigenous people from servitude;

(c) To deliver, free of charge, titles to small plots of farming and grazing land of less than 500 hectares, which play a social role. INRA has completed the distribution of sectors 3 and 4 — a total of 88,000 hectares — which has been divided into 77 plots.

38. Under the redistribution policy, property rights to 60 small and medium-sized farming and grazing plots will be granted, along with titles of ownership. Titles will also be given to seven indigenous communities that have been surveyed and

integrated into the Alto Parapetí community lands of origin. Five large landholdings with no economic and social function, where more than 50 Guaraní families are living in conditions of servitude, will revert to the State.

39. Here are some of the Guaraní names of indigenous communities:

- Iviyeka: "Separated land, land divided into two parts"
- Tasete: "Lots of worker ants (many ants)"
- Yapumbia: "Where the life of man ends"
- Yaiti: "Bushy hillside"
- Itakuatía: "Marked stone or writing on a stone" (a former border marker)
- Huaraca: "Guan"
- Carapari: A cactus that grows in the Chaco region, the Guaraní word for dragonfruit
- Mandiyuti (also "mandyjuti"): "White cotton"
- Karaguatarenda: "Place where karaguata (a wild plant similar to pineapple leaf) grows"
- El arenal: Sand quarry ("Ivikuinti" means sand)
- Timboirenda: "Place where timboy (a plant that can be used for wood) grows"
- Capirenda: "Place where straw grows abundantly"
- Ivicuati (also written yvykuaty): "Well". "Ti", normally written with a diaeresis on the "i", means "white", so "yvycuaty" means "white well"
- Cuevo (Ñumbite or mbui'te): Canyon or plain between two hills

Source: Identity registry of indigenous or aboriginal peoples, Office of the Deputy Minister for Lands.

Guaraní communities within the Alto Parapetí community lands of origin (TCO)

40. The Alto Parapetí TCO are located in the Department of Santa Cruz, Cordillera province, and cover an area of 157,094 hectares.

Boundaries of the community lands of origin

41. To the north, the communities of Iguasurenda, Itaimi, Tenta Piau-Lagunillas, Curupaiti and Kuruyuqui; to the south, the Río Cuevo communities, the El Piritial, Parapetí and Yaguagua properties and the Santa Rosa de Cuevo community; to the east, the Kaami TCO; and to the west, the Santa Rosa de Cuevo community, public land, Quebrada Itacua, Río Caraparí and the Santa Bárbara property.

L. Public policies

42. The Government of the Plurinational State of Bolivia has issued supreme decrees granting various economic benefits to the general population of the country, including the members of the Guaraní nation. One example is the Juancito Pinto

bonus, a benefit granted to children of school age in an amount proportionate to their level of education.

43. The Dignity Bonus is paid monthly to men and women over 60 years of age; the Juana Azurduy Bonus is paid to pregnant women and children up to the age of 2.

M. Higher education

44. The Indigenous University of Bolivia was established through Supreme Decree No. 29664 of 2 August 2008, using resources from the proportion of the direct tax on hydrocarbons that is allocated to the tax's Indigenous Peoples' Fund. The Decree established indigenous universities in various ecoregions in Bolivia. One of these is the Apiahuayqui Tumpa University, based in Kuruyuqui in the territory of the Guaraní nation, which was opened on 11 April 2009 with the active and committed involvement of community organizations and the indigenous and aboriginal peoples of Bolivia in order to conduct scientific research and to solve problems related to the production base and the social environment.

N. Political participation

45. The election of the Plurinational Assembly on 6 December 2009 was a very important event in the history of the Plurinational State of Bolivia. The Assembly is made up of representatives of various indigenous, aboriginal, farming and intercultural nations, peoples and communities.

46. Under the principle of direct representation of indigenous peoples, Wilson Changaraí of the Guaraní People's Assembly (APG) was elected to represent the special indigenous constituency in the Plurinational Assembly.

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Discussion on the special theme for the year, "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples"

Human rights: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Information received from Governments

Paraguay

Summary

The present report contains the responses of the Government of Paraguay to the questionnaire sent to Member States regarding the recommendations of the Permanent Forum on Indigenous Issues at its eighth session. The responses of the Government of Paraguay take into account the recommendations of the Permanent Forum's mission to Paraguay in 2009.

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Responses of Paraguay to the questionnaire from the Permanent Forum on Indigenous Issues

I. Responses to questions 1 and 2

A. The right of peoples to self-determination

1. The Government of Paraguay is making every effort to ensure the right of indigenous peoples to self-determination, as enshrined in articles 3 and 4 of the United Nations Declaration on the Rights of Indigenous Peoples. Thus, chapter V of the National Constitution fully recognizes indigenous peoples as groups that existed prior to the establishment of the Paraguayan State and grants them the right to participate in national life in accordance with their customary practices.

2. Paraguay ratified by Act No. 234 of 1993 the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169) of the International Labour Organization (ILO) and, accordingly, has begun to promote, as a matter of good practice, the right of peoples to participation, on the basis of their genuine and legitimate organization and representation. Paraguay is also studying appropriate mechanisms to comply with the State's advisory duty with regard to any undertaking or initiative relating to the life of indigenous peoples.

3. There are a number of new initiatives currently under way in Paraguay to organize the efforts of indigenous peoples their right to exercise self-determination. Examples of such initiatives are the Coordinadora por la Autodeterminación de los Pueblos Indígenas (Coordinating body for the self-determination of indigenous peoples (CAPI)); the Unión de Nacionalidades Ayoreo del Paraguay (Ayoreo Union of Paraguay (UNAP)); the Asociación de Comunidades Indígenas de Itapúa (Association of indigenous communities of Itapúa (ACIDI)); the Federación Nativa Aché del Paraguay (Aché Federation of Paraguay (FENAP)); the Federación de Asociaciones de Comunidades Guaraníes (Federation of Guaraní community associations), which brings together the Guaraní peoples of Paraguay; and the Asociación de Comunidades Indígenas (Association of Indigenous Communities (ACISPE)) of San Pedro. All these bodies and their civil rights are legally recognized, and they exercise their right to self-determination completely independently from the State, at both the national and the international levels.

B. Identity of indigenous peoples

4. The Instituto Paraguayo del Indígena (Paraguayan Institute for Indigenous Affairs (INDI)) maintains a regularly updated National Register of Indigenous Communities, which comprises a detailed list of significant data, such as recognition of the legal personality of indigenous communities, population, recognized leaders, land situation, surface area, and other data that is closely linked to the identity of indigenous peoples. In addition, ongoing and periodic work is carried out to enter indigenous children into the Civil Registry and to provide all indigenous individuals with an identity card. INDI is also issuing special ethnic identity cards. These tasks are performed by civil servants from the Civil Registry Department and the Identification Department of the National Police.

C. Cultural identity

5. INDI has an Indigenous Culture Unit, which works in conjunction with the Ministry of Culture on issues such as language and the production and advancement of indigenous art, recognizing that indigenous cultures are a rich source of cultural diversity. It should be noted that article 140 of the Constitution of Paraguay provides that Paraguay is a multicultural and bilingual country, the official languages being Spanish and Guaraní. With regard to indigenous education, the Constitution provides that indigenous children must receive their initial schooling in their mother tongue and may choose Spanish or Guaraní as their second language. In 2007, Act No. 3231 was promulgated, establishing the Department of Indigenous School Education. Some 70 per cent of school teachers are indigenous; these teachers have created the Indigenous Teachers' Association in order to best capitalize on their training and fulfil their educational responsibilities.

D. Good practices relating to the ethno-development of the peoples

6. INDI recognizes that in order to meet the demands of indigenous communities, it must incorporate a development angle into its activities. A few years ago, in consultation with the communities and with the assistance of multilateral bodies, it began to manage support for small development projects. Currently, the main activities of INDI include two projects, which are being carried out in consultation with the beneficiary communities.

(a) Project for support to indigenous communities in the Department of Alto Paraguay: Financed by a grant from the Andean Development Corporation (CAF), this project benefits 18 communities of the Ayoreo, Maskoy and Ishyr ethnic groups, with a total of 1,177 families. As decided by the indigenous families, the project includes agricultural and stock breeding activities, and supplies tools, seed and infrastructure. The activities are participatory in that they involve all family members. As a result, indigenous families should be self-sustaining after a few months, within a framework of sustainable environmental management;

(b) Project for the regularization of indigenous lands funded by Japan, under the supervision of the World Bank: This project, which began three years ago, benefits 11 indigenous communities in Caaguazú and 12 indigenous communities in Boquerón, Chaco. Within the framework of the project, a substantial sum was transferred to the selected communities in the form of a direct donation. The use of the donation is being determined on the basis of decisions adopted by the communities. A key feature of this project is that it promotes the regularization of community lands through the issuance of deeds;

(c) Development projects of other State institutions: INDI is aware that other State institutions, such as the Ministry of Agriculture and the Ministry of Social Welfare, are carrying out development projects that benefit indigenous communities.

II. Response to question 3

A. Legalization of community land

7. The demands of indigenous peoples focus primarily on the recognition and return of their ancestral lands. So far, Paraguay has been able to meet about 65 per cent of these demands through the award of deeds to indigenous communities. INDI has a register of communities listing 540 indigenous communities.

8. The fact that much of the land claimed by indigenous peoples is held by private owners makes this task quite difficult, as there are currently only two mechanisms for dealing with such lands: expropriation for reasons of public interest, and purchase.

9. It should be noted that expropriation is a constitutional power held exclusively by the National Congress. For several years now, the Congress has refused to carry out expropriations. For example, in a recent case involving the Yakye Axa indigenous community of the Enxet people, despite a ruling by the Inter-American Court of Human Rights in favour of restoring the ancestral lands to the community, the Senate refused to authorize the expropriation requested by the Executive branch and the indigenous community. That decision was taken in 2009. Other indigenous communities such as Sawhoyamaxa and Xamok Kasek have met the same fate in the past.

10. Land purchases are carried out directly by INDI on the basis of claims, legal proceedings and, lastly, negotiation with private owners. In 2009, INDI disbursed an amount of 19 billion guaranies for the acquisition of land. This amount is appropriated through the national budget. The same amount has been appropriated to INDI for 2010, and it has therefore begun the process of establishing selection criteria for the beneficiary communities in 2010.

B. Increased reliance on large-scale production and the use of agricultural chemicals

11. The difficult situation of indigenous land is compounded by a deterioration in the quality of the land and the quality of life of the communities, resulting from an increase in the large-scale production of soy and wheat in the areas surrounding the communities. This situation has created problems regarding the use of agricultural chemicals by farmers, often in violation of protective legislation, which affect the health of children and adults, according to complaints by the indigenous communities. Legal proceedings have been initiated on some of these complaints, such as that filed with regard to the Avá-Guarani and Mbyá-Guarani communities of Itakyry. INDI is supporting legal action in defence of the affected communities owing to serious concerns about the inappropriate use of pesticides, particularly with respect to non-compliance with environmental laws.

12. These situations have an impact on the human rights of indigenous peoples and their resolution is beyond the authority of the Executive branch, given that legal disputes are under the jurisdiction of the Public Prosecutor's Office and the judges. Another subject of debate is the adoption of a law on the use of agricultural

chemicals, the process of which has been obstructed by strong pressure from farmers.

III. Response to question 4

13. Indigenous issues are one of the priorities of the human rights programme proposed by the Executive branch; the executive authorities are therefore trying to ensure the implementation of the recommendations and meet the needs of this population.

IV. Response to question 5

A. Laws and decrees concerning indigenous peoples

14. Paraguay's laws and decrees concerning indigenous peoples, are listed below:

- The Constitution of Paraguay, part I, title II, chapter V, on indigenous peoples
- Act No. 234/93, ratifying International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries
- Act No. 904/81, Statute of Indigenous Communities, as amended by Act No. 919/1996 and Act No. 2199/2003
- Act No. 3231/2007 establishing the Department of Indigenous School Education
- Education Act No. 1264/98
- Act No. 352/93 concerning protected wilderness areas
- Act No. 446 concerning governorates
- Act No. 375/56, as amended by Act 98/82, on social security and the social service administration
- Act No. 253/71 establishing the National Professional Advancemeat Service
- Act No. 1863/2002 establishing the Agrarian Statute
- Act No. 1286/1998, Code of Criminal Procedure
- Act No. 3232/2007 concerning credit assistance to indigenous communities
- Act No. 3733/2009 allocating 1 per cent of scholarships for higher education to the indigenous sector

B. Presidential decrees: 2008 and 2009

15. In 2008 and 2009, several decrees were adopted concerning indigenous peoples, including:

- Decree No. 1945/2009, establishing the national programme for indigenous peoples (PRONAPI), coordinated by the Paraguayan Institute for Indigenous Affairs (INDI)

- Decree No. 2789/2009 establishing the national programme for food and nutritional sovereignty and security (PLANAL)
- Decree No. 2290/2009 establishing the human rights network of the Executive branch
- Decree No. 1595/2009, establishing an inter-agency commission for the enforcement of judgments of the Inter-American Court of Human Rights and the recommendations of the Inter-American Commission on Human Rights

16. The indigenous peoples are a main focus of the Government of Paraguay. By decree No. 1945, of 30 April 2009, the Executive branch established the national programme for indigenous peoples (PRONAPI) under the Ministry of Social Welfare, in liaison with various ministries and specialized bodies, in order to respond to the most pressing needs, such as food security and the health of members of the indigenous communities. As such, PRONAPI, coordinated by INDI, responds to the needs of the indigenous peoples of Paraguay as a whole in a coordinated manner that is consistent with the functions of its constituent bodies.

17. Phase I was launched at the same time. It deals essentially with the most pressing needs, such as the provision of food, through actions taken with the concerned institutions, which has made it possible to meet the nutritional needs of indigenous families. Under phase II efforts will be made to achieve solutions that are more substantial in terms of action that is more sustainable.

18. With the support of the Food and Agriculture Organization of the United Nations (FAO), a national food programme PLANAL was established that includes a special module for indigenous peoples.

19. The national decent work programme, signed by the President of the Republic and the Director of the ILO Subregional Office on 23 February 2009, expressly refers to the advancement and implementation of basic labour rights and the eradication of forced labour.

20. ILO working paper No. 45, on debt bondage and marginalization in the Chaco region of Paraguay, which was drafted by the Special Action Programme to Combat Forced Labour, has served as the basis of a harmonized vision by social actors concerning forced labour and the indigenous peoples.

21. On 27 May 2009, pursuant to decision No. 230 of the Ministry of Justice and Labour, the Commission on basic labour rights and the prevention of forced labour was established. It comprises representatives of the ministries and secretariats of the Executive branch, the Supreme Court of Justice, employers and workers, INDI and other institutions.

22. In the first quarter of 2009, three seminars were conducted on forced labour and the implementation of ILO Convention No. 169. The first seminar was conducted at the headquarters of the National Congress, the second, at the Commission on basic labour rights and the prevention of forced labour, and the third, for the first time in the country's history, in the Chaco region of Paraguay, with the participation of ministerial and local authorities, ILO experts, indigenous leaders, and representatives of the public and private sectors and of civil society.

23. The Commission established pursuant to decision No. 230/09 of the Ministry of Justice and Labour drafted a plan of action to combat forced labour. As part of the

plan of action, an investigation on the labour situation of indigenous women in Paraguay is being finalized.

24. At the same time, a comprehensive publicity programme is being developed on the ILO Conventions concerning forced labour (Nos. 29 and 105) and No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, to be broadcast by a high frequency radio station (Radio Pa'i Puku) located in the Chaco region.

25. The document "Fighting forced labour: the example of Brazil" has been widely disseminated, as has the recent document on forced labour, "The cost of coercion", issued by ILO for the ninety-eighth session of the International Labour Conference (2009).

26. On 21 September 2009, a session was organized jointly with ILO on the theme, basic labour rights and the prevention of forced labour, which was specially directed at employees in the rural sector. From 5 to 7 October 2009, a course for inspectors was held, which made special reference to the handbook on forced labour and human trafficking for labour inspectors published by the ILO Special Action Programme to Combat Forced Labour. In addition, a seminar was organized for judges, magistrates, prosecutors and defence counsels and also a seminar on indigenous women and the labour market, culminating in a second session, held in the Chaco region of Paraguay in the district of Teniente Irala Fernández on 8 and 9 October 2009.

27. The text of ILO Convention No. 169 is currently being printed in three languages (two indigenous languages and Spanish), and a reading guide to the Convention is in the process of being completed. Technical sessions on basic labour principles and rights were also scheduled, starting on 24 September 2009.

28. In February and May 2009, the Ministry of Justice and Labour, through its inspection and monitoring office, conducted two preventive inspection operations in the Chaco region on decent work in rural localities.

29. The Ministry of Justice and Labour, through the National Professional Advancement Service, has taken its training programme to the most remote areas of the Chaco region of Paraguay. The course participants (indigenous members of the Guarani Nandeva group of the Department of Boquerón) received their training certificate in hydro-sanitary and diesel motor pump maintenance, enabling them to access better types of work and self-employment.

30. The Ministry of Justice and Labour signed an agreement with the Rural Association of Paraguay (ARP) to implement a joint project to regularize the situation of workers at livestock enterprises which are members of ARP in implementation of the labour and social security laws. An awareness-raising campaign for members and non-members of ARP is also under way.

31. Through a joint effort with United Nations agencies, a course on the topic, strengthening institutional arrangements for the implementation of public policies concerning indigenous peoples, was held at the office of the United Nations Development Programme, with the participation of ILO. The course was aimed at strengthening areas of technical assistance and public policies concerning indigenous peoples.

C. Instruments of national legislation for the administration of criminal justice concerning indigenous peoples

32. Paraguayan legislation envisages special treatment for indigenous peoples in the administration of justice, as set out in the Constitution and the Code of Criminal Procedure pursuant to the Constitution.

33. The Constitution confers upon the Public Prosecutor's Office specific duties and powers with regard to the indigenous peoples. In accordance with article 268, paragraph 2, it must promote public criminal proceedings in order to defend the public and social heritage, the environment and other broad interests, as well as the rights of indigenous peoples.

34. Part I, on fundamental principles, rights, duties and guarantees, chapter V, article 63, provides that [indigenous peoples] also have the right to freely apply their systems of political, social, economic, cultural and religious organization, and to voluntarily observe their customary norms within their own communities, provided that they do not violate the fundamental rights established by this Constitution. Indigenous customary law must be taken into account when dealing with conflicts of jurisdiction.

35. The Congress has ratified by force of law (Act No. 234/93) ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, which was adopted at the seventy-sixth ILO Conference held in Geneva on 27 June 1989.

36. Article 8, paragraphs 1 and 2, of the Convention states: "In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights".

37. Article 9, paragraph 1, of the Convention states: "To the extent compatible with the national legal system and internationally recognized human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be respected".

38. Article 10, paragraphs 1 and 2, states: "In imposing penalties laid down by general law on members of these peoples, account shall be taken of their economic, social and cultural characteristics. Preference shall be given to methods of punishment other than confinement in prison".

39. In addition, title VI of the Code of Criminal Procedure (Act No. 3440/08) stipulates the procedure for punishable acts relating to indigenous peoples. Its basic provisions include the following:

40. During the preparatory phase, the prosecutor's investigation must be carried out with the assistance of a technical consultant specializing in indigenous issues (art. 433, para. 1).

41. In the event that preventive detention is ordered, the judge may order an expert report on the living conditions of the jailed defendant that takes into account the cultural attributes of the defendant and, if applicable, makes recommendations with the aim of avoiding cultural alienation (art. 433, para. 2). Also, before ruling on any substantive matter, the judge must hear the opinion of an expert (art. 433, para. 3).

42. During the intermediate phase, the judge must summon the defendant and the victim, together with such members of the community as they may designate, to a hearing at the Public Prosecutor's Office, in order that they may mutually agree on some type of reparation, which may include any measure authorized by this Code, or measures accepted by the culture of the ethnic group in question, with the aim of bringing an end to the proceedings, provided that doing so does not violate the fundamental rights established by the Constitution and current international law (art. 434, para. 1).

V. Response to question 6

A. Paraguayan Institute for Indigenous Affairs — Restructuring

43. Article 28 of the Statute of Indigenous Communities (Act No. 904 of 1981) provides for the establishment of the Instituto Paraguayo del Indigena (Paraguayan Institute for Indigenous Affairs (INDI)):

> An independent government entity known as the Paraguayan Institute for Indigenous Affairs is hereby established, with legal personality and its own assets, for the purpose of the implementation of this Act; it shall be governed by the provisions of the Act and its rules.

44. Article 32 defines the functions of INDI, which include:

(a) Establishing and implementing policies and programmes, and

(b) Coordinating, inspecting and evaluating activities of the public and private sectors relating to indigenous matters.

45. Thus, INDI is the lead agency for indigenous policy in Paraguay; its mission is therefore extremely important and needs to be adapted to current needs within the framework of State reform.

46. In fulfilment of this mandate, INDI began an intensive reorganization effort in August 2009 with a view to making indigenous issues a higher priority within the structure of the State, in accordance with the needs of indigenous peoples.

47. The primary role of INDI is to secure the lands of indigenous communities. On that basis, three main areas of focus have been defined: territory, participation and development. Within this framework, INDI is focusing on an intensive strategic planning effort with the support of UNDP. As part of this effort, a goal for 2013 has been defined, namely that INDI needs to be governed by indigenous peoples' representatives. To that end, the issue of indigenous participation is being addressed with the utmost care, in view of past mistakes which seriously harmed indigenous peoples. The issue of participation is also sensitive because consensus needs to be reached among all indigenous peoples.

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B. Department of Indigenous Education of the Ministry of Education and Culture

C. Support Unit for Indigenous Children and Adolescents of the National Secretariat for Children and Adolescents

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D. Ethnic Rights Department of the Public Prosecutor's Office

48. In order to ensure effective implementation of existing regulations relating to ethnic rights and to protect these rights in the administration of justice, in 1993 the Ethnic Rights Unit was established, with just one person in charge. This Unit was upgraded institutionally and, in 1998, by decision No. 185/98, the Department of Indigenous Affairs (later renamed the Ethnic Rights Department) was established. At the beginning of 2002, by decision of the Office of the Attorney General, it lost the status of department, occasioning administrative, operational and structural consequences.

49. In July 2009, following the advent of a new administration, the Ethnic Rights Department was re-established by decision of the Office of the Attorney General. This Department is shown in the organizational structure of the Public Prosecutor's Office as part of the technical support office, along with other departments. The general objective of the Ethnic Rights Department is to collaborate at the technical level with public prosecutors to ensure the effective implementation of the special national and international norms that apply to indigenous matters. Thanks to the work of this Department, many inter- and intra-ethnic conflicts have been satisfactorily resolved through the implementation of indigenous customary law, thereby avoiding cultural alienation in penitentiary institutions.

50. In order to decentralize its functions and optimize the organization and operational capacity of its structure, the Ethnic Rights Department has two district offices: one in the eastern region and one in the western region, in addition to administrative staff who streamline operations. There is also an approved operations manual and an instruction guide issued by the Office of the Attorney General, which the complaints desk and public prosecutors must follow so that the Ethnic Rights Department can intervene immediately whenever members of indigenous communities are involved in a case to be investigated.

51. Since September 2009, the Ethnic Rights Department has had its own head office. The facilities have been substantially upgraded with better fixtures and technology. In addition, former staff have been reclassified, and new staff have been hired and brought on board, thereby strengthening the human resources available to perform the Department's functions.

52. In this context, efforts are being made to enhance the profile of the Department within the institutional hierarchy, given that the investigative divisions have yet to grant it full participation in cases involving indigenous peoples; also, at the institutional level, there is still a lack of awareness of the Department's existence, and its role is confused with that of other Government departments.

53. At the same time, there is a lack of awareness among judicial personnel regarding the special laws pertaining to [indigenous people involved in] criminal cases, as well as little outreach concerning the importance of this issue and the consequences for the Government in the event of non-compliance with or violation of those laws.

54. In order to mitigate these problems, a few specific actions have been incorporated into the 2010 Annual Operating Plan:

- Development of a training programme for public prosecutors and personnel of the Public Prosecutor's Office, the judicial system and the national police in order to enhance institutional capacity concerning issues relating to indigenous peoples
- Definition of operating criteria concerning the procedure to be followed at the outset of an investigation
- Development of guidelines for coordination between positive law and customary law
- Establishment of strategic alliances with the Ministry of Justice, the human rights division of the Supreme Court of Justice and the national police in order to facilitate indigenous peoples' access to the justice system in a manner suited to their social and anthropological characteristics
- Development of outreach materials in order to publicize the fundamental rights of indigenous peoples as well as the functions of the Ethnic Rights Department

E. Cases processed by the Public Prosecutor's Office during the period between 2008 and 2009 involving indigenous peoples

55. In the western region (Chaco region of Paraguay) there are district attorney's offices in the following departments: Boquerón, located in the city of Filadelfia, and Presidente Hayes, located in the cities of Pozo Colorado and Villa Hayes.

56. The cases processed between 2008 and 2009 included the following:

District attorney's office at Pozo Colorado (Presidente Hayes):

- A total of six incidents involving indigenous peoples, classified by the type of offence:
  - Two incidents of culpable homicide (both traffic accidents)
  - One case of suspected suicide
  - Two incidents of sexual coercion (both within indigenous communities)
  - One incident of livestock theft

District attorney's office at Villa Hayes (Presidente Hayes):

- A total of nine incidents involving indigenous peoples, classified by the type of crime:
  - One case of aggravated larceny
  - One case of culpable homicide

- One case involving attempted homicide
- Two cases of squatting
- One case of livestock theft
- One as-yet undefined case
- One case involving threats and damage
- One case involving injury

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VI. Response to question 7

57. In 2009, on the initiative of the Social Cabinet of the Office of the President of the Republic and the United Nations system in Paraguay, and with the support of indigenous organizations such as the coordinating body for the self-determination of indigenous peoples (CAPI), the Federation of Guarani community associations, the coordinating body for Chaco indigenous peoples and the network of private entities supporting the indigenous peoples of Paraguay, a series of seminars was organized with the aim of strengthening institutional capacity for the implementation of public policies aimed at indigenous peoples. The general objective was to strengthen and build institutional capacity in the State and civil society, in order to eliminate inequalities and the social exclusion of indigenous peoples, in accordance with domestic and international norms.

58. The objectives are:

(a) To establish a mechanism for assistance to indigenous peoples by public entities, with particular regard for the provisions of ILO Convention No. 169;

(b) To provide technical information on democracy, human rights and indigenous peoples to members of the various State and social groups which are involved in issues related to indigenous peoples;

(c) To promote social investment and democratic values from an intercultural perspective among members of the various State and social groups dealing with indigenous peoples.

59. The training, which covered subjects ranging from the preparation of meetings to the development of the final module, was well attended by State actors and prominent representatives of civil society. It also afforded opportunities for participants to forge alliances, gain a deeper understanding of the rights of indigenous peoples, and establish strategies for the exercise of these rights.

A. Training plan

60. The Supreme Court of Justice, through the human rights division, has established a training plan for judicial personnel, in strategic alliance with the non-governmental organization CAPI, that is being implemented progressively in the various judicial districts as resources become available, and in keeping with the timetable established with CAPI.

61. The plan was designed primarily for judicial personnel: appellate court officials, lower court judges, clerks and stenographers, justices of the peace, defence lawyers and prosecutors. It is also offered to leaders of local indigenous organizations, who, in the sessions which have taken place, considered their participation in a forum from which they had traditionally been excluded a historical event.

62. The plan includes segments on doctrinal principles concerning indigenous peoples, human rights and national and international legislation. The main objective is to promote the integration of a human rights perspective into judicial proceedings related to indigenous peoples, in both the civil and the criminal arenas, thereby fostering the recognition of cultural diversity. The training plan encompasses cultural identities and human rights, national indigenous legislation, indigenous rights in international law, and the State and indigenous law.

63. The team of specialized trainers is made up of major civil society actors, with the notable presence of judges and experts who have the necessary training to be able to contribute their knowledge and experience to the project (the methodology and programme are described in annex I).

Results achieved:

- Training of 204 judicial personnel, judicial facilitators, indigenous leaders and other social actors of three judicial districts (Amambay, Concepción and Alto Paraná)
- Development of a participatory and innovative methodology applied from the outset of the project, beginning with the preparation of the publication *Derecho Indígena y Derechos Humanos en Paraguay* (Indigenous Law and Human Rights in Paraguay) with representatives of CAPI and independent experts, under the coordination of the Supreme Court of Justice through its human rights division. The dynamics of the three meetings held helped bring the perspective of indigenous peoples to the fore, through their representatives, who had an opportunity at the start of each activity to present an overview of the situation in their communities, with special emphasis on the administration of justice
- Promotion of discussion and consensus-building forums, leading to agreements on the application of the special procedures established in national and international legislation
- Use of the Guaraní language in both the facilitators' presentations and the participants' interventions, thus giving due importance to our native language
- Exchange of experiences among magistrates in the application of norms for indigenous peoples

B. Publications

64. The publication *Derecho Indígena y Derechos Humanos* (Indigenous Law and Human Rights) contains the training plan and is the basis for the implementation of the plan by judicial personnel. A report was also published, entitled *Audencia pública "pueblos indígenas y poder judicial"* (public hearing on indigenous peoples

and the judiciary), with an accompanying CD-ROM containing a summary, cases, etc.

C. Strategic alliances

65. The human rights division is constantly undertaking activities to forge strategic alliances with both State institutions and civil society organizations. In that regard, in addition to the above-mentioned alliance with CAPI, a coordinated activity is planned for 2010 with INDI and other public bodies and non-governmental organizations. The Tierra Viva organization has also helped carry out specific activities to promote the rights of indigenous peoples.

D. Activities for dissemination, promotion and exchanges with civil society

66. Public hearing on the judiciary and indigenous peoples: In 2009, the first public hearing on the judiciary and indigenous peoples was held within the framework of the cooperation agreement between the human rights division of the Supreme Court of Justice and the Centre for Judicial Studies. A judge of the Supreme Court of Justice supported and participated in this public hearing with a presentation on the subject of indigenous peoples. Experts from civil society were also present. At the end of the event, the report *audencia pública "pueblos indígenas y poder judicial"* (Public hearing on the judiciary and indigenous peoples) was circulated.

67. Third Latin American Meeting of Local Governments in Indigenous Territories, "Tekohâre", with the participation of governors, municipal mayors and indigenous authorities. It is important to note that the human rights division promotes the active participation of judicial personnel. To this end, it arranged for Mr. José Valiente, a criminal court judge from Garantía, and Mr. Jorge Servín, an expert in indigenous affairs from the judiciary, to attend the meeting as presenters, and also arranged for its technical experts to serve as moderators of the six discussion forums.

68. Organization of "Human Rights Week" in 2007 and 2008, with a special day for the rights of indigenous peoples in December 2009. This activity took place within the judiciary. The organizers used alternative methods to spread the message about human rights, such as music, theatre and book launches. The goal was to sensitize judicial personnel to the importance and responsibility of their role as guarantors of human rights.

VII. Response to question 8

69. Both INDI and the United Nations system are engaged in the dissemination of the Declaration, which has become the paradigm that sets out the path for actions through which the demands of indigenous peoples can be expressed.

70. A printed version of the Declaration was presented at the intercontinental meeting of indigenous peoples that took place in Asunción in November 2009. The document was unique in that it was printed in both Spanish and Guarani, with an

informative glossary of key words written in Guarani. The publication bears the United Nations logo.

71. Representatives of public and private entities took part in the presentation and the document was distributed extensively in order to reach as many organizations as possible in Paraguay.

72. INDI plans to organize staff training workshops in 2010 on the United Nations Declaration to enable its staff to perform their role of publicizing and promoting the application of the Declaration.

73. In August 2008, the National Secretariat for Children and Adolescents (SNNA) initiated a process of outreach to indigenous children and adolescents, families and communities of the eastern and western regions. On 16 August, SNNA chaired the first meeting of children and adolescents of indigenous areas, rural inhabitants and urban dwellers, at which a sectoral analysis was made of the current situation of children and adolescents; a march took place along Avenida Mcal. Lopez to the residence of the President of the Republic, to whom a joint document was delivered. The participants joined the President in celebrating the first Government Day and Meeting with Presidents, along with the President of the Bolivarian Republic of Venezuela. The first Aty Guasu (major meeting) with indigenous peoples of urban settlements of the metropolitan area of Asunción was held in September 2009. During the meeting, a situational diagnosis was carried out with children, adolescents and parents of the various settlements and groups of street people.

74. An inter-agency committee for comprehensive care for indigenous street children, adolescents and families was set up with experts in indigenous affairs from the Department of Indigenous School Education (DGEEI) of the Ministry of Education and Culture, INDI, the Department for Vulnerable Groups (DGAGV) of the Ministry of Public Health and Social Welfare, and the Programme for street children adolescents (PAINAC) of SNNA. This led to the establishment of a forum for discussion and action through which participating institutions initiated a process for the recognition of the living conditions of indigenous urban populations.

75. In October 2008 a team of indigenous teachers was formed within the framework PAINAC with financing from the Yacyreta binational entity under an agreement with SNNA and ALDEAS SOS. Through this programme, and in conjunction with DGEEI, INDI and DGAGV, assistance is provided to a group of 72 indigenous children and adolescents and 6 families exposed to substance abuse and to sexual and labour exploitation on the street, primarily in the km12 zone of Luque. Indigenous children, adolescents and families are assisted with nutritional and health problems in health centres; medical care in the street and in urban settlements is coordinated with DGAGV under a schedule of visits. Groups of Mbyá Guarani children, adolescents and families, at their request, receive services in their original communities in the departments of Caazapá, Caaguazú, Guirá and San Pedro.

76. Through street outreach to Mbyá Guarani and Avá Guarani children, adolescents and families, the process of integration into urban indigenous settlements in the metropolitan area of Asunción is begun; this intervention focuses on the Cerro Poty de Cateura (Asunción) settlement. At present the team of teachers consists of two indigenous teachers from the Mbyá Guarani and Avá Guarani communities. The first census of the community was carried out by and at the request of community leaders and representatives, resulting in the finding that 81

out of 92 children and adolescents were engaged in various types of street activities (street performances, sale of handicrafts, begging).

77. In January 2009, community outreach in Cerro Poty was expanded to include participation workshops for children and adolescents, weekly community cinema sessions, and medical care provided in conjunction with DGAGV and the Department for Children and Adolescents of the Ministry of Public Health and Social Welfare.

78. Through PAINAC, in conjunction with the participation department and the communications department, an intensive audiovisual production course was organized with indigenous and street children and adolescents; two short films were produced: *La Calle: buscando nuevos caminos* ("The Street: seeking new directions") and *Ore Avei Paraguayo*. These short films were entered in the Latin American street cinema contest held in Rio de Janeiro, Brazil, and placed among the 10 best films.

79. In February, March and April 2009, the PAINAC team carried out emergency activities with children and adolescents who, along with their parents, had travelled from the interior of the country for the Indigenous Congress convened by the Government to elect the officers of INDI; the Ministry of Education and Culture provided food and diapers for children and adolescents, and group censuses were conducted in locations including Remansito Villa Hayes, Stella Maris de Ita Enramada college and San Luis de Asunción college. At the same time, outreach continued to a group of street children and adolescents in the km12 zone of Luque, and a complaint was filed with criminal court No. 3 at Luque against adults who were exposing children and adolescents to the consumption and marketing of the inhalant *cola de zapatero*, sexual and labour exploitation, and various types of physical maltreatment; the complaint was referred to the Ethnic Rights Office of the Public Prosecutor's Office.

80. In March 2009, in the Cerro Poty community, the Tekove Porã women's committee was established, consisting of indigenous mothers who work on the street; they transmitted to the SNNA Minister a request for support for the food security of their families and a commitment not to expose their children to the hardships of the street. Under a subsequent agreement between the women's committee and SNNA, the Jahupi Mbarete component was established and planning of a community kitchen was undertaken with the participation of the mothers, followed by the community kitchen in Cerro Poty, in April.

81. Assistance was provided for indigenous women in Plaza Uruguaya, Plaza Italia and the INDI building on Don Bosco street through the provision of meals for 280 children and adolescents for over a month, and protective measures were proposed to leaders and parents in the form of a shelter in an army building and the subsequent filing of a complaint with the Public Prosecutor's Office and the children's and adolescents' court for exposing children and adolescents to risks.

82. After five months of systematic assistance by teachers from the Unit for indigenous children and adolescents (UANAI) to 60 indigenous children and adolescents and five families from the km12 zone of Luque, the group was disbanded because of the adults' fear of being reported for exposing the children and adolescents to cold weather, substance abuse, and sexual and labour exploitation, and because of the death on site of Belensi Galeano, aged 14 months, from

respiratory problems, which occurred on 12 July. Criminal court No. 3 of Luque did not take action at any time on the incident reported months earlier.

83. In the process of outreach to street populations and to the communities of origin, contact was made with members of various indigenous peoples and urban settlements; through mapping and the collection of data and information, 15 indigenous urban groups, settlements and communities were identified with approximately 500 families and a total of 3,500 people.

84. In Asunción the following settlements were identified: Cerro Poty — Avá Guarani and Mbyá Guarani; Ramal La Católica — Avá Guarani; Cerro Guy — Toba Qom and Avá Guarani; Cateura 1 — Mbyá Guarani and Avá Guarani; Cateura 2 — Mbya Guarani and Avá Guarani; Viñas Cue — Chamacoco; Terminal Casa Calle 5 — Mbya Guarani and Avá Guarani; Terminal Alquiler 1 — Mbyá Guarani and Avá Guarani.

85. In Luque, the indigenous inhabitants are settled in Tarumandymi — Mbyá Guarani; Marin Kaaguy — Chamacoco; Comunidad Centro Nueva Esperanza (ex API) — Nivacle, Toba Qom, Ishirt, Tomaraho, Avá Guarani and Mbyá Guarani; Laurelty — Chamacoco, Aché and Avá Guarani; Tapyi Ha'eño — Mbyá Guarani.

86. In Mariano Roque Alonso, la Comunidad Maka — Maka, and in Fernando de la Mora, the Tapyi'i settlement — Mbya Guarani.

87. In all these settlements assistance was provided to 205 families during the last seven months of 2009. By December 2009 the number of families had increased, reaching a total of 230 family units.

88. With regard to the strengthening of culture, coordination was effected with the Ministry of Culture in providing support and assistance to craftspeople from these urban settlements and a network of indigenous craftspeople was established, consisting of representatives of various indigenous peoples, who have participated in various craft fairs and also in a number of national exhibitions.

89. Through the participation department, in conjunction with UANAI, a territorial social and support programme was developed and links were established with various indigenous communities, including urban settlements and communities of the eastern and western areas.

90. In Cerro Poty support was provided to 18 craftspeople through the provision of tools donated by the Organization of Ibero-American States; this contribution was very important because it enabled parents to increase their incomes.

91. On 11 October a Day for indigenous dignity was celebrated with the first meeting of urban indigenous people from the metropolitan area of Asunción, organized with inhabitants from various indigenous settlements, SNNA, INDI, the Ministry of Social Welfare and the Ministry of Education and Culture. A festival of cultural activities was held, with dances, songs, religious rituals, typical food and the exhibition and sale of handicrafts. This event created visibility for various indigenous peoples who live in the urban area of greater Asunción.

92. Itakyry, Yaká and Aguae are the Avá Guarani and Mbyá Guarani communities affected by fumigation with agrotoxins. SNNA supported and visited each community to learn more about the problems. In consultation with the inhabitants, complaints were made to the environmental court of Curuguaty Canindeyu, in the

case of Aguae; in Alto Paraná, in the case of Itakyry, joint interventions were undertaken with other agencies; and in the case of Yakâ Marangatu, an inter-agency committee was set up to investigate the situation in the community.

93. Street outreach was increased following the mass influx of Mbyá Guarani family groups and clans from the departments of Caaguazú, Guaira, Canindeyu, San Pedro and Caazapa. At the request of families, community leaders and other relatives, these groups were assisted on their return to their original communities by the provision of food hampers.

94. In December 2009 Aty Ñemongetara was held with 130 children and adolescents and adult community representatives of people living in the metropolitan area of Asunción and the eastern and western regions. At this event, a review of the conditions in which indigenous children and adolescents are living in the various territories of Paraguay was carried out and action plans were established relating to participation, food security and access to water, education, health and economic support for families, and services such as roads and communications, among other aspects; these will form part of the SNNA National Plan of Action for 2009-2013.

Annex I

Summary of the plan for the training of judges in indigenous law and human rights

Methodology

Target group:

Judges and judicial personnel

Presenters:

- An expert in doctrine (human rights) and indigenous law
- A trained technician to moderate group activities (lecture session, group work on case studies)
- A foreign expert at certain sessions or at a later date

Materials:

- Provision of documentation and technical and analytical reports to participants for preparatory reading and analysis

Duration of the plan:

- At least two workshops of four hours each

Certification:

- Participants will receive a certificate issued by the human rights division

I. **Description:**

Activities for the analysis of principles relating to indigenous peoples — national legislation and international human rights instruments.

II. **General objective of the plan:**

Application of a human rights perspective to proceedings (civil and criminal) involving indigenous people, promoting recognition of cultural diversity and linkage with international human rights instruments.

III. **Specific objectives:**

- Analyse the relationship between human rights and indigenous rights
- Place indigenous law within the perspective of the development of human rights
- Understand the relationship between law and cultural diversity
- Become familiar with the basic content of current indigenous law
- Review the treatment of indigenous people in international law and the systems for the international protection of the rights of indigenous people
- Apply national and international jurisprudence in the administration of justice

IV. Content:

Unit I. Cultural identity and human rights

1. Treatment of minorities by the State: assimilation, integration and diversity
2. Related concepts (ethnicity, nation, State, population, people, territoriality, territory)
3. Human rights and indigenous law

Unit II. Current indigenous legislation

1. National constitution and indigenous peoples
2. Indigenous customary law; legal concept and applicability
3. Analysis of existing indigenous legislation: Act No. 904 and other regulatory instruments
4. Special legal procedure

Unit III. Indigenous rights in international law

1. Indigenous rights in the United Nations system
2. Indigenous rights in the Inter-American system — Jurisprudence of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights

Unit IV. The State and indigenous law

1. Tensions between human rights and indigenous rights: case studies
2. Expertise, technical advice
3. Article 438; preventive measures of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights; enforcement

V. Methodology and implementation:

- Intensive workshop with specialists and preparatory reading
- National and international case studies
- Participation in workshops for discussions and exchange of experience
- Talks by invited speakers

VI. Evaluation and certification:

A final evaluation session with speakers, organizers and participants. The Supreme Court of Justice will award certificates to those who have completed the requisite number of hours.

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Items 3 and 4 of the provisional agenda*

Discussion on the special theme for the year: " Indigenous peoples: Development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples"

Human rights: implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Information received from Governments

Mexico

Summary

The present report contains a statement by the Government of Mexico on the measures taken or envisaged in response to the recommendations made by the Permanent Forum on Indigenous Issues.

* E/C.19/2010/1.

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1. The development of indigenous peoples is a priority for Mexico that involves the coordinated action by the three levels of government, through the National Commission for the Development of Indigenous Peoples (CDI).[1]

I. Recommendation on the impact of the migration of indigenous peoples[2]

2. Since 21 May 2003, the National Institute of Indigenous Affairs, now called the National Commission for the Development of Indigenous Peoples has, with the support of the United Nations Development Programme (UNDP), been conducting studies to track the movement of the indigenous population in the country, their presence in the cities, their migration to the neighbouring country to the north as well the changing ethnic make-up of the human settlements along the southern border.

3. The Government is of the view that individuals may migrate voluntarily for different reasons which are not necessarily related to violent conflicts. The literature on the subject has identified other important problems associated with migration, two of the most significant of which are:

- The violation of the human and labour rights of indigenous migrant people in the areas of transit and areas of destination;
- The impact of migration in the areas of origin, including issues such as the break-up of families or changes in behaviour brought about by "new" cultural patterns at host destinations, resulting in a reassessment of the sense of belonging to the indigenous peoples and communities, reassessment which always results in a greater sense of alienation.

4. The studies on indigenous migration have identified six problems in the areas of origin of migrants:

(a) The social and cultural impact on families and communities of the changed economic patterns with the transition from a peasant to a market economy;

(b) Excessive sub-division of land and deterioration of natural resources;

(c) Unemployment and lack of economic alternatives;

(d) Fall in the prices of the main agricultural crops, including coffee, sisal, sugar, tobacco, cocoa and tomatoes;

(e) Down time in the agricultural cycle;

(f) Lack of basic social services, including health care, education and infrastructure.

5. In 2009, CDI carried out studies on indigenous migration, including the following:

- Trends in current indigenous migration;

[1] The annual report on the activities undertaken in 2009 will be published in March 2010 and will be posted on the CDI website: www.cdi.gob.mx.

[2] E/2009/43, para. 30.

- Permanent settlements of indigenous populations around agro-industrial and tourist areas of Sonora;
- Migrant indigenous children in Sonora. Identification of areas of institutional focus.

6. The aim of CDI under its Project for Assistance to Displaced Indigenous Peoples is to work hand in hand with federal, state and municipal governments to assist indigenous populations displaced as a result of violence, armed conflict, human rights violations, or religious, political, cultural or ethnic intolerance, to resettle or return to their home areas, while ensuring that their cultural diversity will be fully respected. As part of the project, 157.7 million Mexican pesos have been invested since 2006 in purchasing building materials, farm land and plots of land in urban areas, and inputs for gainful activities to assist 2,043 displaced indigenous families to relocate or return to their home areas in the states of Chiapas, Guerrero, Hidalgo, Jalisco, Nayarit and Oaxaca.

II. Recommendation on the creation of indigenous language and cultural studies centres[3]

7. In Mexico the main bodies responsible for monitoring the implementation of the indigenous peoples' right to education are: the Coordinating Office for Intercultural Bilingual Education and the General Directorate for Indigenous Education, both under the Ministry of Public Education; the National Institute of Indigenous Languages (INALI); and CDI.

8. The National Programme for the Development of the Indigenous Peoples for the period 2009-2012[4] sets forth strategy 2.7 to promote, as provided by relevant legislation, access by the indigenous children and youth of the country to quality and culturally relevant education and to promote the concept of multiculturalism in the entire national educational system. Introducing multiculturalism into all levels and structures of education is one of the biggest challenges facing the country.

9. There are currently two university programmes:

(a) Bilingual degree in multicultural primary education. Its goal is to train people who are able to provide quality education, while being fair and sensitive to cultural diversity. The training requires promoting indigenous languages as a means of communication, instruction and subject of study in order to develop oral and written communications skills in both the indigenous languages and Spanish, as well as to restore the status of indigenous languages in school and in society. This degree programme is open to both students from indigenous communities with varying degrees of command of their native tongues and non-indigenous students. The programme, which covers 31 indigenous languages, is currently offered at 18 teacher training colleges located at Oaxaca, Guerrero, Chiapas, Michoacán, Campeche, Hidalgo, Baja California Sur, Veracruz, Puebla, Quintana Roo, San Luis Potosí, Yucatán, Sinaloa and Sonora. It should be noted that the programme has already been accredited by the Ministry of Public Education.

[3] E/2009/43, para. 86.

[4] Published in the Diario Oficial on 4 December 2009.

(b) Multicultural universities. This model aims at identifying culturally relevant career paths for indigenous and non-indigenous adolescents from various social backgrounds who are interested in pursuing higher education and are committed to promoting the advancement of indigenous peoples and the development of neglected rural areas. It requires reorienting the curriculum offered by the existing institutions of higher learning to tailor them to the areas of concern of the indigenous populations and rural areas. It provides avenues for training in the cultural identity of the peoples of Mexico and offers subject options geared towards the promotion of the cultural and regional development of Mexico and expands course offerings, thereby opening up prospects for training in the cultural identity of the peoples of Mexico and thus promoting regional development.

10. The nine indigenous universities established to date are located in the states of México, Chiapas, Tabasco, Puebla, Veracruz, Michoacan, Guerrero, Sinaloa and Quintana Roo; they are currently attended by some 5,684 students, the majority of whom hail from indigenous communities. These new universities have permitted the enrolment of a significant number of native women from those areas (they currently number 3,050 and account for 53.6 per cent of student enrolment) who are given an opportunity for self-advancement that they would not have had had these new institutions been located in areas far from their home regions. The courses are geared to the conservation and development of 31 national indigenous languages.

11. The development of indigenous universities requires education from a very early age. The indigenous school shelters and canteens component of the indigenous boarding school programme helps to keep indigenous girls, boys and youths enrolled in schools under the Ministry of Education, by providing discrete levels of attention, with priority being given to those with no educational options in their community. Community initiatives to promote access by indigenous youth to basic, middle and higher education and encourage them to stay in school and finish their studies are strengthened and supported.[5]

12. Indigenous boarding schools are crucial to the education of children, since they have a direct impact on their physical development through the provision of meals and provide them with safe accommodation and appropriate support, making for a more conducive study environment. While the services provided need to be improved substantially, they do have an appreciable impact in ensuring that children are enrolled and remain in school; indeed, the low failure and drop-out rates demonstrate that this programme is achieving its overall objectives.

13. In 2009, awareness-raising courses entitled "Sharing through sports"[6] were organized for heads of shelters and beneficiaries in the states of Chiapas, Guerrero, Nayarit and Oaxaca to familiarize them with the Millennium Development Goals. Workshops on the human rights status of childhood and the handling of emergency situations, coordinated by the United Nations Children's Fund (UNICEF), were also held for heads of boarding schools in Yucatan, Quintana Roo and Campeche.

[5] In 2009 CDI had an amended annual operating budget of 745,417 Mexican pesos to provide for an average of 60,000 boys and girls in boarding schools and 9,242 adolescents in community hostels under the Programme.

[6] CDI organized this activity jointly with the Ministry of Social Development.

III. Development of culture and identity: articles 3 and 33 of the United Nations Declaration on the Rights of Indigenous Peoples

14. The National Programme for the Development of the Indigenous Peoples for the period 2009-2012 sets out the objectives, indicators, goals, strategies and actions through which the Federal Government promotes development with identity, namely development that is sensitive to, and recognizes, the culture, languages and rights of the country's indigenous individuals, peoples and communities and is fully consistent with both the National Development Plan for the period 2007-2012 and the Federal Government's strategy for living better.

15. The National Programme for the Development of the Indigenous Peoples was developed from information obtained from the 57 regional forums held with indigenous peoples in early 2007 as part of the consultations for the preparation of the National Development Plan and the proposals made by the CDI advisory council.

16. The fundamental principle of the Programme for the Development of the Indigenous Peoples is article 2, paragraph (b), of the Political Constitution of the United Mexican States, which provides that the institutions of the Mexican State, at the three levels of government, are responsible for overcoming the economic and social backwardness and ensuring the comprehensive and sustainable development of the indigenous peoples and communities.

17. On the basis of the foregoing, and in the belief that all institutions are mandated by law to take a culturally sensitive approach to the needs of the indigenous peoples in their respective areas of competence, CDI convened a meeting of federal agencies and entities in late 2007 to participate in the development of strategies and lines of action for this Programme.

18. Development with identity for the indigenous peoples and communities is the underlying principle of policies with respect to indigenous peoples' issues implemented by the Federal Government. To that end, CDI has defined four strategic objectives: (a) promoting the sustainable human development of peoples and communities; (b) fostering a wider use of consultations as a tool in defining Government actions and programmes; (c) ensuring that the rights of indigenous peoples are exercised in keeping with the relevant legislation; and (d) enhancing multicultural dialogue while safeguarding cultures and traditions.

IV. Obstacles to the implementation of the Permanent Forum's recommendations

19. Unlike the reports of other sessions, the report of the eighth session made recommendations that were more focused on the issues addressed, including with respect to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. As a result, Mexico was able to highlight those rights with respect to which important action had been taken and significant achievements had been recorded and which had heretofore not been reported on.

20. Mexico welcomes the effort made by the secretariat of the Permanent Forum, which identified recommendations addressed specifically to Member States.[7]

V. Facilitating factors for the implementation of the Permanent Forum's recommendations

21. As noted in Mexico's 2009 report, our country has viewed cooperation and coordination with United Nations agencies, programmes and funds based in Mexico as an opportunity for advancing the implementation of the recommendations made by the Permanent Forum and implementing the United Nations Declaration on the Rights of Indigenous Peoples.

22. In 2009, Mexico cooperated with UNICEF and UNDP in the following areas:

- Signing of a framework cooperation agreement between CDI and UNICEF, the purpose of which is to lay the foundation for the development of joint cooperation activities that will contribute to better designed public policies and promote community participation in activities benefiting children (26 August 2009);
- Preparation of the report on the human development of the indigenous peoples of Mexico, the updated version of which will be ready in March 2010.[8]

VI. Specific laws, policies or other similar tools to address indigenous peoples' issues in Mexico (unless already mentioned in previous responses)

23. As set out in the National Programme for the Development of the Indigenous Peoples for the period 2009-2012, the national legal framework must take account of the collective indigenous rights enshrined in the Political Constitution of the United Mexican States. To that end, the National Commission for the Development of Indigenous Peoples (CDI) has contributed legal opinions to support legislative efforts at the federal and state levels, with a view to raising the awareness of legislators and civil servants regarding indigenous rights and providing them with the information needed to guide their work.

24. In 2008, 47 bills designed to reform the federal legal framework in areas critical to the advancement of indigenous peoples were submitted to the Congress of the Union. One of them resulted in a Decree amending and adding various provisions to the General Act on Ecological Balance and Environmental Protection, aimed at strengthening voluntary land certification, which was published in the Diario Oficial on 16 May 2008.

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[7] See www.un.org/esa/socdev/unpfii/documents/8th_Session_Recommendations_to_States.pdf.

[8] The overall goal of this report is to estimate the municipal human development index and develop various human development indicators that can be used to analyse the well-being of the indigenous population as compared to that of the non-indigenous population. Another goal is to determine whether there is a provision under the federal budget for an increased allocation of funds for the indigenous population.

25. The bills deal with issues such as: enforcing indigenous peoples' right to decent housing; promoting bilingual and multicultural education in indigenous regions through the use of books in indigenous languages; furthering the knowledge and respect of indigenous cultures; recognizing indigenous peoples and communities as subjects of public law, and recognizing their right to be consulted, thereby guaranteeing free, prior and informed consent; in the case of indigenous accused persons, enforcing the obligation of the authorities responsible for enforcing and administering justice to assign to them public defenders who are fluent in and familiar with their language and culture; setting up a sub-fund to improve and expand the educational infrastructure in indigenous areas; incorporating provisions into the Agrarian Act on the regulation of lands and territories of indigenous communities and promoting access to agrarian justice in their own languages; recognizing indigenous territories as a new category of territorial administration; recognizing indigenous and rural midwives as maternal and infant health-care providers, by considering their work as a social service; allowing the use in rituals and ceremonies of endangered species of wild flora and fauna; giving Congress the power to legislate the recognition of copyrights and patent rights, and the protection and dissemination of traditional indigenous knowledge; allowing the operation and/or direct administration of artistic monuments, and historical and archaeological sites for the benefit of the indigenous communities established in those areas; the visible use of indigenous languages in public places, nomenclature and official notices; enacting general legislation on the system of indigenous consultation and making consultation-related amendments to the CDI Act; giving indigenous peoples and communities access to broadcast media; ensuring that national political parties guarantee the participation of men and women representing the indigenous population in electoral districts where they account for 40 per cent or more of the total population through nominations to elected office in the Congress of the Union, whether election is by relative majority or proportional representation; amending the General Act on Women's Access to a Life Free From Violence with regard to the timing and grounds for issuing a gender violence alert, and the provision of sufficient resources to guarantee women a life free from violence.

26. In 2009, the following initiatives were noteworthy:

- draft decree amending the Federal Civil Code and the General Act on the Linguistic Rights of Indigenous Peoples;
- progress report on the draft decree amending article 32 of the Act on the Protection of the Rights of Children and Adolescents;
- draft decree amending the CDI establishment Act.

27. These legislative efforts reflect the willingness and commitment of the State of Mexico to harmonizing its national legal framework with respect to indigenous rights and culture, by incorporating the contents of international legal instruments and the rights recognized under the Political Constitution of the United Mexican States.

VII. National institution as a focal point on indigenous issues

28. As indicated in previous reports, the Government of Mexico has established CDI, a decentralized non-sectoral body of the Federal Civil Service. It has legal personality and its own assets, operating, technical, budgetary and administrative autonomy; its headquarters are in Mexico City, and it is tasked with guiding, coordinating, promoting, supporting, encouraging, monitoring and evaluating programmes, projects, strategies and public actions for the comprehensive and sustainable development of indigenous peoples, pursuant to the provisions of article 2 of the Political Constitution of the United Mexican States.

29. The CDI governing body is its governing board; it has a Director General to represent its administrative body and an Advisory Council, which provides advice on indigenous peoples' issues and serves as a liaison with the wider society.

30. The Commission operates in 24 states of Mexico through 103 coordination centres for indigenous development, 1,072 functioning indigenous boarding schools, and 20 AM radio stations and 4 experimental FM stations belonging to the System of Indigenous Culture Radio Stations.

31. On 23 December 2009, President Felipe Calderon Hinojosa, appointed Mr. Xavier Abreu Sierra as the new Director General of CDI; he took up his post on 1 January 2010.

VIII. Regular capacity-building programme on indigenous issues for national civil service staff

32. Since 2007, the Government of Mexico, through CDI and INALI, has promoted the Strategy for the Training and Accreditation of Interpreters of Indigenous Languages in the areas of law enforcement and administration of justice, in the states of Guerrero, Chihuahua, Oaxaca — in the regions of Istmo de Tehuantepec and Mixteca — Veracruz and Yucatán. This Strategy is being implemented in coordination with many federal and local institutions in each of the aforementioned states.

33. The Strategy's objective is to guarantee the effective enjoyment of the rights of the country's indigenous population as recognized in article 2 of the Constitution, particularly with respect to their right to full access to the justice system, which is also provided for in article 12 of the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169), and in article 13, paragraph 2, of the United Nations Declaration on the Rights of Indigenous Peoples.

34. The national legislation reproduces the provisions of the Constitution and international law in a number of laws and codes. Article 15 of the Federal Code of Criminal Procedure establishes that, in proceedings involving persons belonging to an indigenous people or community, those persons must be assigned interpreters and counsel who are familiar with their language and culture, and proof of such assistance must be documented in the record of the proceedings. Likewise, article 18 of the Code provides that in situations involving persons belonging to an indigenous people or community, the interpreter must not only be fluent in the language, but must also be knowledgeable about the practices and customs of those persons.

35. As part of the Strategy, INALI has launched a project to establish a national register of interpreters and translators of indigenous languages, a critical step towards ensuring that indigenous persons involved in legal proceedings have access to interpreters and translators.

36. The following table contains the results of the implementation of the Strategy.

Federal entity	Year	Participants	Accredited students	Mother tongue of students' parents
Guerrero	2007	26	24	Amuzgo, northern
				Mexicano, Guerrero
				Mixteco, Allamanalcingo
				Mixteco, Cochoapa
				Mixteco, mid-eastern Guerrero
				Mixteco, San Luis Acatlán
				Mixteco, Tlacoachistlahuaca
				Mixteco, Tlalixtaquilla
				Tlapaneco, lower central
				Tlapaneco, southwestern
Oaxaca-Istmo	2008	38	31	Huave, western
				Lower Mixe
				Mixe, mid-eastern
				Zapoteco, lower Istmo mountains
				Zapoteco, coastal plains
				Zapoteco, Petapa
				Zoque, western
Oaxaca-Mixteca	2008	32	29	Chochoiteco, southern
				Mixteco, central
				Mixteco, Puebla-Oaxaca border
				Mixteco, lower central coast of Oaxaca
				Mixteco, central-western
				Mixteco, San Mateo Peñasco
				Mixteco, northeastern highland
				Mixteco, lower northern
				Mixteco, higher western
				Mixteco, lower southern
				Mixteco, middle southern
				Mixteco, southwestern
				Mixteco, central southwestern
				Higher Triqui
				Lower Triqui

Federal entity	*Year*	*Participants*	*Accredited students*	*Mother tongue of students (variants)*
				Middle Triqui
				Triqui, San Juan Copala
Chihuahua	2008	39	10	Pima, southern
				Tarahumara, central
				Tepehuano, northern
				Totonaco, coastal
Veracruz	2009	39	Under evaluation	Totonaco, south-central
				Totonaco, higher central
				Tenek, central
				Otomi
				Tepehua, Tlachichilco
Yucatán	2009	37	Under evaluation	Maya

Source: CDI, Planning and Advisory Unit, January 2010.

IX. Information regarding the promotion and implementation of the United Nations Declaration on the Rights of Indigenous Peoples

37. As reported to the Permanent Forum last year, since the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the United Nations General Assembly, Mexico has launched a number of activities to publicize its contents, including the dissemination of the Declaration's substantive articles through the CDI System of Indigenous Culture Radio Stations and the publication of a pocket edition. Similarly, the translation of those articles into indigenous languages was carried out as a joint initiative by CDI; INALI; and the offices in Mexico of UNDP, the United Nations Information Centre, the Office of the United Nations High Commissioner for Human Rights and the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean.

38. The following 18 indigenous languages have been translated so far: Ch'ol; Chinanteco, northern; Huasteco, western; Maya; Mayo; Mazahua; Mazateco, central; Mexicano, Huasteca Hidalguense; Lower Mixe; Náhuatl, Istmo; Purépecha; Totonaco, coastal; Tseltal; Tsotsil; Zapoteco, coastal plains; Tarahumara, central; Tlapaneco, southwestern; and Tojolabal.

39. Translations should become available in 2010 for: Amuzgo; Popoloca, highlands; and Zapoteco, central coastal.

40. In an international cooperation effort by CDI and UNDP, the distribution of translations of the Declaration was combined with dissemination workshops for the indigenous peoples and communities of Mexico. During the period from April to December 2009, workshops were held in the cities of Mérida and Felipe Carrillo Puerto in the state of Quintana Roo, for indigenous women in leadership positions in their communities and lawyers who defend the rights of indigenous peoples,

including gender rights, as well as for indigenous youth in Cuetzalan, Puebla; Etchojoa, Sonora; and Tuxtla Gutiérrez, Chiapas.

41. One of the most recent initiatives was the presentation of a report entitled *State of the World's Indigenous Peoples* at the United Nations Information Centre in Mexico City on 14 January 2010. The new Director General of CDI, Xavier Abreu Sierra, highlighted the importance of implementing the Declaration and noted that the consultation and participation of indigenous peoples and communities must serve as guiding principles for their own development, as established in articles 18 and 19 of the Declaration.

42. The presentation of the report was accompanied by the screening of a short film entitled *El Camino de Sabina*, produced jointly by the offices in Mexico of UNIC, UNDP, OHCHR, as well as INALI and CDI. The short film is a joint initiative to promote the rights of indigenous peoples under the United Nations Declaration on the Rights of Indigenous Peoples.

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Human rights: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Information received from Governments

Burkina Faso

Summary

This document contains the responses of the Ministry for the Promotion of Human Rights of the Government of Burkina Faso to the questionnaire sent to Member States concerning the recommendations of the Permanent Forum at its eighth session.

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1. Burkina Faso is a multicultural State in which about 60 ethnic groups with different religions, languages and cultures peacefully coexist. It shares borders with six other States and welcomes many communities from Africa and other regions of the world, who live harmoniously with the local population.

2. In this respect, Burkina Faso is a crossroads of migration and, owing to the legendary hospitality of its people, has always been a destination and transit country for the migrants from sub-Saharan Africa who live in or travel through its territory.

3. No ethnic group is subject to marginalization or discrimination at the political, economic, social or cultural level. In building the nation State, the Government is seeking to promote all cultures and ensure the balanced socio-economic development of all regions of the country, despite its meagre resources. Burkina Faso has also embarked on a process of full decentralization with the adoption of law No. 055-2004/AN of 21 December 2004 establishing the general code for territorial authorities in Burkina Faso. This decentralization recognizes the right of territorial authorities to manage themselves freely and handle their own affairs with a view to promoting grass-roots development and strengthening local governance. Each local community, without any distinction, is required to join this process.

4. Burkina Faso recognizes the presence of Tuareg and Fulani peoples in part of its territory. In accordance with its commitments under the international instruments that it has signed, it respects the spirit of the United Nations Declaration on the Rights of Indigenous Peoples, having voted in favour of the resolution by means of which the Declaration was adopted on 13 September 2007. As an African State, Burkina Faso fully subscribes to the Advisory Opinion of the African Commission on Human and Peoples' Rights on the said Declaration. It is for that reason that the Burkina Faso Government has legally authorized the existence of Tuareg and Fulani associations which, in the name of self-identification, claim to be defending the rights of the Tuareg or Fulani indigenous peoples in Burkina Faso. Similarly, the Government welcomed a mission to promote the rights of indigenous peoples, conducted by the African Commission on Human and Peoples' Rights in the region of Burkina Faso where the Fulani and Tuareg peoples are present.

5. It is, however, important to note that Burkina Faso has members of parliament and Government ministers of Tuareg and Fulani ethnicity. The Fula language is one of the three national languages most widely used in the media and for official speeches. Public primary education is free and compulsory for all children, without exception, up to the age of 16. In the specific case of nomad children, the Government is experimenting with shepherd schools, where teachers are deployed to follow the seasonal movements of nomadic populations. In the area of health, especially maternal and child health, training has been provided for Tuareg traditional birth attendants and a transport system using camels or carts has been introduced in order to try to reconcile modern medicine and good traditional health-care practices.

6. With full decentralization, responsibility for socio-economic and cultural development (education, health, culture, economic development projects, etc.) has been transferred to the municipalities. In this regard, article 9 of law No. 055-2004/AN of 21 December 2004 establishing the general code for territorial authorities in Burkina Faso provides that the territorial authority, which is the commune or region, may:

(a) Undertake any action to foster economic, social, cultural and environmental development and participate in land-use planning;

(b) Enter into contracts with any natural or legal persons, whether public or private, including the State, other territorial authorities and public institutions, or establish cooperative relationships with organizations outside Burkina Faso, with due respect for sovereignty and the national interest;

(c) Undertake, in the cases provided for by law, and within its scope of responsibility, cooperative actions leading to the conclusion of agreements with the territorial authorities of foreign countries, or with public or private international agencies working in the area of development;

(d) Establish or acquire institutions in the field of education, health, the environment or any other socio-economic or cultural field;

(e) Establish local public institutions to manage socio-economic or cultural activities;

(f) Acquire shares or bonds issued by companies whose purpose is to operate local services or national services open to the participation of territorial authorities.

7. Article 11 of the law provides that persons living in the jurisdiction of the territorial authority shall be entitled to information on the management of local affairs, while article 36 stipulates that when the State transfers responsibilities to a territorial authority, it must also transfer the means and resources required for the normal exercise of those responsibilities.

8. This means that each commune, each village and each ethnic community in Burkina Faso has been made responsible for its own socio-economic, political and cultural development, with due respect for national sovereignty and territorial integrity.

9. The implementation of law No. 055-2004/AN of 21 December 2004 establishing the general code for territorial authorities in Burkina Faso takes into account all the concerns raised in the recommendations of the Permanent Forum at its eighth session. Furthermore, Burkina Faso, convinced that the term indigenous populations or communities is not aimed at protecting the rights of a certain category of citizens over and above others, and does not create a hierarchy between national communities, but rather tries to guarantee the equal enjoyment of rights and freedoms, considers that the Tuareg and Fulani people living in its territory are full nationals of Burkina Faso and are not characterized by a state of subjugation, marginalization, dispossession, exclusion or discrimination as set out in the United Nations Declaration on the Rights of Indigenous Peoples or the Advisory Opinion of the African Commission on Human and Peoples' Rights. The difficulties associated with health care, education and the status of women and children are not specific to any ethnic group in Burkina Faso.

10. Nonetheless, Burkina Faso, concerned to ensure full respect for the rule of law and human rights, stands in solidarity with the struggle to promote and protect the human rights of indigenous peoples where they are present. In this regard, the issue of indigenous peoples and communities comes under the mandate of the Ministry for the Promotion of Human Rights. Within the context of capacity-building, the

Ministry officials who are responsible for the issue attend seminars and international meetings on indigenous affairs, subject to the availability of funding.